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## Legislative Assembly of Ontario

Third Session, 37<sup>th</sup> Parliament

## Assemblée législative de l'Ontario

Troisième session, 37<sup>e</sup> législature

# Official Report of Debates (Hansard)

Thursday 23 May 2002

# Journal des débats (Hansard)

Jeudi 23 mai 2002

## Standing committee on public accounts

Ethics and Transparency  
in Public Matters Act, 2001

## Comité permanent des comptes publics

Loi de 2001 sur l'éthique  
et la transparence des questions  
d'intérêt public



Chair: John Gerretsen  
Clerk: Tonia Grannum

Président : John Gerretsen  
Greffière : Tonia Grannum



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## LEGISLATIVE ASSEMBLY OF ONTARIO

## ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON  
PUBLIC ACCOUNTSCOMITÉ PERMANENT DES  
COMPTES PUBLICS

Thursday 23 May 2002

Jeudi 23 mai 2002

*The committee met at 1005 in committee room 1.*ETHICS AND TRANSPARENCY  
IN PUBLIC MATTERS ACT, 2001LOI DE 2001 SUR L'ÉTHIQUE  
ET LA TRANSPARENCE DES QUESTIONS  
D'INTÉRÊT PUBLIC

Consideration of Bill 95, An Act to require open meetings and more stringent conflict rules for provincial and municipal boards, commissions and other public bodies / Projet de loi 95, Loi exigeant des réunions publiques et des règles plus strictes de règlement de conflit pour les commissions et conseils provinciaux et municipaux ainsi que les autres organismes publics.

**The Chair (Mr John Gerretsen):** I'd like to call the meeting to order. Today's meeting will deal with Bill 95, An Act to require open meetings and more stringent conflict rules for provincial and municipal boards, commissions and other public bodies. We'll go through it section by section. Any opening comments? Ms Di Cocco.

**Ms Caroline Di Cocco (Sarnia-Lambton):** Yes, if I could. Tonya, did you get the—

**Clerk of the Committee (Ms Tonya Grannum):** They're being copied.

**Ms Di Cocco:** OK. What has happened, for clarification: subsections 3(3), 3(4), 3(5), 3(6) and 5(3)—I guess there was some kind of computer issue with regard to putting them in the package here. It had been previously submitted, I believe, way back in February, but maybe you can speak to that, please.

**Mr Albert Nigro:** For the record, my name is Albert Nigro, legislative counsel. I'd like to apologize to the member, Ms Di Cocco, the members and the Chair of the committee. They had to replace the hard drive on my computer, but when I copied a package, for reasons that I cannot explain, two motions in particular were not copied with it. When I sent it out, I did not check to see that it was complete, because usually when using a copy function on a computer, you assume it's complete. I should not have relied on the technology. I apologize to the committee and to the member in particular for that.

**Ms Di Cocco:** I also assume that everyone has the overview as to what the amendments constitute. Hopefully there's been lots of time to submit any kinds of comments or questions to me in that regard. I believe it

definitely does fine-tune the bill and address a number of the issues that have been dealt with at this committee.

**The Chair:** They're the last two pages of the package that was delivered to our offices—the overview.

**Ms Di Cocco:** The overview. Yes, exactly.

**The Chair:** Can we start then? Yes, Mr Maves.

**Mr Bart Maves (Niagara Falls):** Two weeks ago we said we were bringing this bill back for today, I believe it was, when we talked about it. If we go back to February, we were about to start clause-by-clause and probably defeat the bill on our side, because we had concerns with it. At that time, I undertook to provide some comments to Ms Di Cocco about some of my concerns and some of our concerns about the bill. I worked on some stuff for a couple of weeks and then, frankly, other things overtook it. I put it away and never went back to it. I forgot about it and never really heard from anyone about, "Where's your letter? I haven't received any input from you," until two weeks ago when we said that Bill 95 is going to come back for clause-by-clause. I apologize, Ms Di Cocco, that I wasn't more vigilant. It's not my bill; it's not my preoccupation. I did do some work on it, but I didn't complete that work. I received a letter from her this week asking me for those comments, and I pulled my stuff back out and went at it again. I have a work-in-progress, but it's not complete. That's number one.

Number two, we just received a package of amendments this morning. Ms Di Cocco's comments that she just made about, "I assume you've had an opportunity to ask my office if they have any questions or concerns about the amendments"—we just got them this morning, so we wouldn't have had any opportunity to read them.

**The Chair:** Just a minute now. I believe that the original package of amendments was delivered to all the members on May 21, two days ago.

**Mr Maves:** I received mine this morning. So no, we haven't had an opportunity to review them or forward any questions or comments about them. I think what we tried to do in February was say, "Here's a different process that we'd rather follow." I apologize for not, as I said, being more vigilant in completing what I undertook to do.

However, we decided two weeks ago, for some reason, to bring this back and do clause-by-clause right away on it. I don't think we're in a much different position than we were back in February. I don't know where



the impetus was to come back and say, "OK, bring it back, and let's do clause-by-clause on it."

1010

**The Chair:** Just for the record, two weeks ago we agreed on a work schedule for the next six weeks. It was agreed that any amendments to this bill would be submitted to the Clerk's office, I believe by last Thursday or Friday, and they would then be distributed to the members quickly thereafter, and that today we would be discussing this bill. That's what happened a couple of weeks ago. So if things have changed, then things have changed. But I think that's what happened.

**Ms Di Cocco:** I'm surprised that you received the letter just recently, because it was drafted a lot earlier. I don't know how all of this sometimes gets worked out in the mail, but certainly I had attempted to remind the members. When I had not heard any comments from the government members, I thought I would just give a heads-up that this bill was now on the agenda again and that I was looking forward to any comments. I certainly abided by all of the timelines that were provided to me to submit any other amendments or any comments that dealt with the concerns from the last discussion. So I certainly attempted to do that and was as diligent as I could possibly be, knowing what the timeline was.

However, I really do want this bill to be given proper consideration, because I think it's good legislation. I think it makes the governance much improved in public bodies. That's certainly my opinion. That's the rationale. I'm hoping the government members also have the courage to move forward on something like this type of legislation.

**Mr Richard Patten (Ottawa Centre):** If the government side is saying they'd like more time to review this, that's fine. There's no point in going ahead if you're not ready, in my opinion. So if they're asking for a postponement of a week or two, then let's hear what they have to say on the timeline.

**The Chair:** Just so there's no misunderstanding, it's my understanding that these original amendments were filed on February 20 and that the amendments that were erroneously taken off a hard drive, or whatever happened, are the same as were included in the original package on February 20. They've been shuffled around a little bit so that they fit the right sections. The substance is the same.

**Mr Maves:** That's fine, but I never even had a chance to look at them or to know that or compare them or anything.

**The Chair:** Well, what's your wish?

**Ms Di Cocco:** Again, February 20 till today is a good length of time to go over them if there's interest in this to move it forward, unless the intention is to keep postponing it. We all are busy, but this is part and parcel of the work that's coming here. We all knew when the Legislature was going to resume and this was going to be dealt with. How much more time would the government members like? If the government—

**The Chair:** Go ahead. Does anybody want to say anything? Ms Di Cocco, or—

**Mr Patten:** She asked a question.

**The Chair:** OK.

**Ms Shelley Martel (Nickel Belt):** I don't want to undermine what Ms Di Cocco's trying to do, which is to give the government another opportunity to get ready for this. For my part, speaking only for myself, I am extremely frustrated by this process. We have had these amendments for a long time. We did not deal with this bill previously, because Mr Maves, on behalf of the government, wanted more time to address this and bring forward his own concerns. I think he had an obligation to do that. It's not Ms Di Cocco's obligation to remind him to do that.

We knew that this was going to be scheduled for today. We knew two weeks ago and agreed to this schedule. I just find it very hard to believe that we are in a position again here today where we cannot deal with this bill.

For my part, I would just say to the government that if all you're going to do is vote this down, then do it today and let's get this over with, because I'm not interested in coming back here, looking for some more time on a schedule that's already crowded to come back here and to have us do it again. If that's what your intention is and you're just trying to delay and delay so we don't get to that point, let's just do it now.

**The Chair:** Not to confuse the matter any further, I have just received a letter that has been copied from the Ministry of Consumer and Business Services that they want to distribute about Bill 95 to the members of the committee—it's got 10:37 on the 23rd; they must not have reset the clock after we went into daylight time. I'll have to distribute it, so that we have all the information in front of us. It's from the minister himself, as a matter of fact.

**Mr Raminder Gill (Bramalea-Gore-Malton-Springdale):** Especially in light of this recent memo, and certainly there is confusion, I think it's fair to ask to review it next week and defer it till then.

**The Chair:** Yes, we could defer it until next week.

**Mr Gill:** That's my submission.

**Mr Maves:** I can, as I said, give Ms Di Cocco what I've got to date. That, I assume, is going to cause her to have a look at the concerns raised and try to address them either with amendments or with an argument that it's an inappropriate concern. So if I gave her what I have now and completed it over the ensuing week, then she would have just gotten that letter. How do we then do clause-by-clause next week? And I don't know what's in here, but—

**Ms Di Cocco:** I think that, with all due respect, there has been enough time provided. There is the business of having to deal with this bill. I certainly have attempted to provide information and to provide my own views on the bill as clearly and as quickly as I could. We all have work to do and we're all busy, but I think there's been plenty of time given for the amendments, to deal with the issues



from the different ministries. Let's get on with this and let's move forward.

**The Chair:** Unless there's a motion to the contrary, we'll now start clause-by-clause.

**Mrs Julia Munro (York North):** I'm waiting for the opportunity to comment on section 1.

**The Chair:** All right, let's deal with section 1.

Are there any amendments to the section?

**Mrs Munro:** I'd just like to point out that in the earlier meeting that we had on this bill, I raised the issue of definitions. I'm disappointed to see that in the amendments that have been provided to us, what I have here starts with section 2.

**The Chair:** Yes, there are no amendments proposed with respect to section 1.

**Mrs Munro:** My comments then go back to that previous meeting we had where I did raise this issue, because I feel that it's really important, when you are looking at a process—much of this bill deals with process and the need, then, to provide a clear set of definitions for people to operate within the intent of the bill, which is of course a reflection primarily of process.

1020

I want to express my concerns, because things such as meetings, as a first example, are not defined. This means, then, that the intent of the bill could very easily be corrupted by simple procedural changes that would then allow people to do the very things that the bill purports to eliminate.

There is again no definition of a decision. Decisions, according to this bill, would have to be documented and minuted, but there's no guide as to what constitutes a decision. As it stands now, it would be unclear whether this would, for example, include the results and motions, procedural rulings by the chair or both.

Another area that I think is extremely problematic is the question of what constitutes or what defines an open or closed meeting. If there are no parameters in the bill, obviously there's no way to determine whether in fact someone has breached the act.

The issue of conflict of interest is a huge issue in the ability of this bill to meet the intent. We know in our own lives as legislators how important it is to be able to define conflict of interest. I mean, there are volumes written; we have an arbiter in terms of the Integrity Commissioner. Again, I think there's a huge danger that the intent of the bill could in fact be abandoned, quite frankly, by the manipulation of the bill as it stands, because you don't have a guideline that would determine without a comprehensive definition.

I have to say that I'm disappointed, because I feel that these are integral to the intent of the bill. Quite frankly, without these I think we would be jeopardizing the intent of this bill and the way in which it would work. So I was looking for those kinds of amendments that would really create a firm ground on which the rest of the bill then would function.

**Ms Di Cocco:** I understand the need to find holes in the bill. I mean, I understand the reason for the position

that was taken. Under the Corporations Act, there are a number of, if you want to call them, givens with regard to what decisions are and what meetings are. If a municipal body or others don't know what a meeting is, we've got some real problems. On the other hand, under "Open meetings" there is an amendment that deals with what constitutes an open meeting for that purpose.

When it comes to the integrity, if you want, of the intent, the bodies that are in this legislation have a very, very clear understanding of what constitutes a decision, what constitutes a meeting, and that's a given that's integral to those corporations in doing business. What this bill does is enforce, through a fine—a number of these corporations or, if you want, these public bodies, conduct business inappropriately behind closed doors, which goes on over and over again. It provides a penalty for that. That's the intent of the bill.

You can consistently nitpick if you want, and you can find this way and that. I really don't believe that is a very good argument. Nonetheless I do respect the member's opinion on that, although I fundamentally disagree with a number of those arguments.

**Mr Maves:** One part of my comments that I was working on for the member opposite was a similar concern over the definitions, or lack thereof, in the bill, including the schedules that are applied to the bill, which lists, I believe, 17 organizations or provincial agencies, of which there are 300. I noted that from the introduction of the bill through the public hearings on the bill and other feedback, different people were taken out of the schedule over time, so that we're left with the 19 that are on here. But there are 300 provincial agencies, and as I see it we have randomly picked 19 provincial agencies. Why aren't we applying this to everybody else, all these other provincial agencies? I don't understand the rationale for that. I think several of those agencies, like the marketing boards, came to Ms Di Cocco and said, "You need to remove us from this legislation and here's why." She said yes, OK, and removed them from the legislation.

We just got a letter today from the Minister of Consumer and Business Services saying that the Electrical Safety Authority has some concerns about being included in the act, as does the Alcohol and Gaming Commission of Ontario. If the rest of these 300 provincial agencies and organizations came forward and explained why they shouldn't be under the act, I wonder if they would similarly be removed, or some more included. There's a concern I have over that, and I think we've expressed that before.

**The Chair:** Any further comments?

**Ms Di Cocco:** We can continue these comments. On one hand, there are substantive principles involved here about public bodies. Again, I don't agree with the comment that I just arbitrarily decided this, that or the other thing. I think the arguments put forth as to which public bodies should be in the bill were very sound.

I've already commented on this previously at the other meetings, but I believe the government has an agenda, and the agenda is that it has to defeat this bill because it



comes from an opposition member. That's the intent, and that's what's going to happen here today.

**Mr Patten:** The minister actually supports the bill. If you read the letter, he says, "While I support the goal of increased accountability for public bodies, I believe...." I don't think he would send a message asking to exclude two bodies that he doesn't feel fall within the purview of the bill—at least one. He said, "I would like to assure you that I continue to support the intent of Bill 95."

**Mr Maves:** That's not what he says.

**Mr Patten:** I'm reading what he says. "In making this request, I would like to assure you that I continue to support the intent of Bill 95 in improving...." but asks you to consider the two bodies he mentions. Anyway, I don't know if everybody's had a chance to read this letter.

1030

**Mr Maves:** Reading verbatim, he says, "While I support the goal of increased accountability for public bodies," and in the next paragraph, "I would like to assure you that I continue to support the intent of Bill 95." Nowhere does he say he supports the bill as it is.

**Mr Patten:** "I would like to assure you that I continue to support the intent" of the bill.

**Mr Maves:** The intent.

**The Chair:** Is there any further discussion? If not, I'm going to call for the vote. Shall section 1 carry?

**Ms Martel:** Recorded vote.

**Ayes**

Di Cocco, Martel, Patten.

**Nays**

Barrett, Gill, Maves, Munro.

**The Chair:** That section is defeated. Section 2.

**Ms Di Cocco:** I move that section 2 be amended by adding the following:

"Meeting

"(2) Sections 3 to 10 apply to any meeting of a designated public body if the purpose of the meeting is the making of any decision or recommendation, the taking of action or the giving of advice in respect of any matter or matters within the jurisdiction or terms of reference of the public body and,

"(a) a sufficient number of the members of the public body are invited to attend to constitute a quorum; or

"(b) a sufficient number of the members of the public body attend so as to constitute a quorum."

**The Chair:** Discussion?

**Mrs Munro:** I have a question about clauses (a) and (b). If I understand this correctly, it suggests (a) or (b), and (a) only requires that the members of the public body are invited as opposed to actually being physically there. Am I correct in my interpretation? In other words, if you actually extend an invitation to these people, does it count as a quorum?

**Ms Di Cocco:** I would ask legislative counsel to provide an explanation.

**Mr Nigro:** In part, I would say the member is correct, although you cannot read clauses (a) and (b) without reading what I would call the opening words of the section. The opening words say, "Sections 3 to 10 apply to any meeting of a designated public body." So it's a meeting of a designated public body where a number of things could happen: either a sufficient number of members are invited to attend to constitute a quorum, or a quorum actually attends the meeting. It's either of those two events. However, it is a meeting of a designated public body, and it starts in those terms.

**Mrs Munro:** First of all, I thought it was unusual that if you get invited, you constitute a quorum. Secondly, would this not then be related to the issue that was raised earlier about definitions? The member suggested in remarks about the definitions that each of these publicly constituted bodies would have in their own constitutions those definitions with regard to meetings; that is, what defines a meeting. Now we're giving a definition, in a sense, to a particular kind of meeting, and I'm just wondering how that fits with the earlier explanation of why we didn't have a definition of a meeting in section 1.

**Mr Nigro:** I'm not sure what the member is asking me. As a general matter, we don't tend to put substantive provisions in definitions. We do what is done here. This is an application section. This tells you what it applies to. If a designated public body has, through its own procedural rules or other constituting documents, rules as to what constitutes a meeting for purposes of that designated body—all this section says is, for any meeting of a designated public body. You would look to how the public body conducts itself, and then you would look to see—for purposes of sections 3 to 10 of the act, if a quorum is invited or if a quorum attends, then it's a meeting for those sections of this act to apply.

**Mrs Munro:** My question then to counsel is, what happens if in their own constitutions or the legal framework under which they operate there are already sections that deal with such things as quorums?

**Mr Nigro:** This section doesn't deal with the issue of what constitutes a quorum. It only says if a quorum is invited. In fact, you would look to their own rules to find out what the quorum is. You would look to their bylaws and whatever rules of procedure they operate under. It doesn't tell you what a quorum is. It doesn't purport to do that.

**Mr Patten:** I'm just saying that every incorporated body is required to have bylaws that constitute what a quorum is, the conditions under which they meet etc. Quite frankly, I think any legally constituted body with that would be covered.

**The Chair:** Any further comments? Shall the amendment carry?

**Ms Martel:** Recorded vote.

**Ayes**

Di Cocco, Martel, Patten.



**Nays**

Barrett, Gill, Maves, Munro.

**The Chair:** The amendment is defeated.

We'll now vote on section 2. Shall section 2 carry?

**Ms Martel:** Recorded vote.

**Ayes**

Barrett, Di Cocco, Gill, Martel, Maves, Munro, Patten.

**The Chair:** That's carried.

Section 3: any amendments?

**Ms Di Cocco:** I move that clause 3(2)(d) of the bill be struck out and the following substituted:

"(d) personnel matters involving an identifiable individual, including an employee of the designated public body or of a committee of the designated public body, will be discussed;"

**The Chair:** Any discussion on the amendment?

**Mr Maves:** One second, Chair.

**The Chair:** This has the effect of limiting personnel matters.

**Ms Di Cocco:** Yes. It narrows the basis on which the public can be excluded from meetings where personnel matters are discussed, and it adds as the grounds for public exclusion from meetings where negotiations related to labour relations or employment will be discussed.

**The Chair:** Any discussion? Shall the amendment carry?

**Ms Di Cocco:** Recorded vote.

**Ayes**

Di Cocco, Martel, Patten.

**Nays**

Barrett, Gill, Maves, Munro.

**The Chair:** The amendment is defeated.

Any further amendments to section 3?

**Ms Di Cocco:** I move that subsection 3(2) of the bill be amended by adding the following clause:

"(d.1) negotiations or anticipated negotiations between the body or a committee of the body and a person, bargaining agent or party to a proceeding or an anticipated proceeding relating to labour relations or a person's employment by the body or a committee of the body will be discussed."

1040

**The Chair:** Any discussion? Shall the amendment carry?

**Ms Di Cocco:** A recorded vote.

**Ayes**

Di Cocco, Martel, Patten.

**Nays**

Barrett, Gill, Maves, Munro.

**The Chair:** The amendment is defeated.

Are there any further amendments to section 3?

**Ms Di Cocco:** I move that section 3 of the bill be amended by adding the following subsections:

"Motion stating reasons

"(3) A designated public body or a committee of a designated public body shall not exclude the public from a meeting before a vote is held on a motion to exclude the public, which motion must clearly state the nature of the matter to be considered at the closed meeting and the general reasons why the public is being excluded.

"Taking of vote

"(4) The meeting shall not be closed to the public during the taking of the vote on the motion under subsection (3).

"Minutes

"(5) The minutes of a designated public body or a committee of a designated public body shall record any motion moved under subsection (3), including the nature of the matter to be considered and the reasons for excluding the public that are stated in the motion."

**The Chair:** Any discussion? Shall the amendment carry?

**Ms Di Cocco:** A recorded vote, please.

**Ayes**

Di Cocco, Martel, Patten.

**Nays**

Barrett, Gill, Maves, Munro.

**The Chair:** The amendment is defeated.

That's the last of the amendments to section 3.

Shall section 3 carry?

**Ms Di Cocco:** A recorded vote.

**Ayes**

Di Cocco, Martel, Patten.

**Nays**

Barrett, Gill, Maves, Munro.

**The Chair:** Section 3 is defeated.

Are there any amendments to section 4?

**Ms Di Cocco:** I move that section 4 of the bill be amended by adding the following subsection:

"Offence—head or chairperson

"(3) If the person who is convicted of an offence under subsection (1) is the head or chairperson of the designated public body, the maximum fine that may be imposed is \$2,500 and not as provided in subsection (1).

"Same

"(4) Subsection (3) does not apply unless the court is satisfied that the person who is convicted was, at the time of the offence, the duly elected, appointed or selected, as the case may be, head or chair of the public body."

**The Chair:** Any discussion on the amendment?



**Mrs Munro:** I believe originally the fine was to be \$1,000.

**Ms Di Cocco:** For the members of the body.

**Mrs Munro:** And now you're suggesting in this amendment that the chair would have—

**Ms Di Cocco:** If you'd like, I could explain.

**Mrs Munro:** OK, the maximum fine that could be imposed, that may be imposed.

You refer here in subsection (4) to "unless the court is satisfied." Does this mean your intent is that this would require court action? Is that what we're talking about?

**Ms Di Cocco:** Does legislative counsel want to speak to this, please?

**Mr Nigro:** Yes. If the act allows for prosecution if members breach the openness section, which is what section 4 does, what the amendment does is impose a greater fine if you are a chair or a head of a designated public body.

**Mrs Munro:** I guess my question really comes from the fact that what's implied here is that there would be a court case.

**Mr Nigro:** A prosecution under the Provincial Offences Act, in effect, yes.

**Mrs Munro:** OK. Is that made clear in another part of the act?

**Mr Nigro:** If you were to look at subsection 4(1)—and there are several other offence sections in this act as well, but that's basically the offence.

**Mrs Munro:** OK. I just couldn't remember whether that was there. Would the individual then be compelled to pay the fine, would it come from the budget of the body or do you have insurance? What kind of things? This isn't referenced here. This is a fairly substantial kind of penalty to be imposed.

**Ms Di Cocco:** My understanding is it would be paid by the individual.

**Mrs Munro:** I'm just wondering: if the bill is silent on that, then it does leave open these kinds of possibilities, does it not?

**Mr Nigro:** The bill is silent on who pays the fine. If someone were convicted under this section, a court would have no jurisdiction to be concerned with how the fine was paid if one were imposed, only that it was paid. Could a member of a public body who was convicted of an offence under this section ask the public body to pay for the fine? There's no reason in law that I know of that he or she could not.

**Mrs Munro:** I'm just wondering if that doesn't undermine the intent. I see the possibility here of simply, "OK, now we carry extra insurance to be able to cover this kind of potential liability," when the bill is silent on that.

**The Chair:** Just a question to the legislative counsel: does any other legislation say who actually ends up paying a fine?

**Mr Nigro:** I'm not aware of any legislation that directs that the fine can or cannot be paid by a particular person. That's not to say there isn't any; I would say that it's not common, though.

**The Chair:** OK. Any further comments on this amendment? Shall the amendment carry?

**Ms Di Cocco:** Recorded vote.

**Ayes**

Di Cocco, Martel, Patten.

**Nays**

Barrett, Gill, Maves, Munro.

**The Chair:** The amendment is defeated.

Are there any further amendments to section 4? No. Shall section 4 carry?

**Ms Di Cocco:** Recorded vote.

**Ayes**

Di Cocco, Martel, Patten.

**Nays**

Barrett, Gill, Maves, Munro.

**The Chair:** Section 4 is defeated.

Section 5: any amendments?

**Ms Di Cocco:** Yes. I move that section 5 of the bill be amended by adding the following subsection—

**The Chair:** Would you do the other one first—clause 5(1)(c).

**Ms Di Cocco:** Sorry. I move that clause 5(1)(c) of the bill be struck out and the following substituted:

"(c) be made available to the public at the same time they are made available to the members of the designated public body or the committee of the designated public body, whether the minutes have been adopted or not."

**The Chair:** Are there any comments?

**Ms Di Cocco:** If they need an explanation, it just means that minutes must be available to the public at the same time as they're available to the members of the body. They don't necessarily have to be approved, but the minutes do have to be made available.

1050

**The Chair:** Any discussion on this amendment?

**Mrs Munro:** Just a question. What's the purpose of doing them before they're adopted?

**Ms Di Cocco:** I believe it was one of the recommendations that have been made. So as they are being discussed at the open meeting, those minutes are made available at the same time as the members' minutes. If there are any changes that are made, the public has an opportunity to see where the changes are being made and why.

**Mr Maves:** Then you have different versions of minutes floating around: those before and those after.

**The Chair:** Any further discussion on the amendment? Shall the amendment carry?

**Ms Di Cocco:** A recorded vote.



**Ayes**

Di Cocco, Martel.

**Nays**

Barrett, Gill, Maves, Munro, Patten.

**The Chair:** The amendment is defeated.

Now, you've got one other amendment to 5?

**Ms Di Cocco:** Yes. I move that section 5 of the bill be amended by adding the following subsection:

"Recording decisions made in absence of the public

"(3) Despite subsection (2), the minutes shall record decisions that are made at any meetings or parts of meetings from which the public was excluded."

**The Chair:** Discussion on the amendment?

**Mrs Munro:** I just wanted to have a little explanation of "the minutes shall record decisions." This is the first time, if I'm correct, that we've had anything that gives some kind of direction with regard to minutes. Is that correct?

**Ms Di Cocco:** I don't know if that's correct or not. I could be wrong, but I thought it was submitted way back when. Maybe somebody can help me here. We've had so many meetings and discussions, I'm not exactly sure. It just means that the minutes will record what decision was made in camera, that's all. After the decision has taken place in camera, the decision has to be made public; it has to be in the minutes of the open meeting.

**Mrs Munro:** The practice today is not—

**Ms Di Cocco:** It's varied. Some bodies do, and some bodies don't. It's a mixed bag.

**Mrs Munro:** Yes, because I was thinking of bodies from which I receive minutes—all of us would as members—and all it says is "in camera." That's why I asked you today. So there would be a patchwork in terms of—

**Ms Di Cocco:** Yes, across the province. Some municipalities do—that's part of their procedure—and some don't. With other public bodies such as school boards, once the decision is taken in camera they report it, but some don't. Again, that's not consistent, I guess.

**Mrs Munro:** So they would only have to report when they've actually made the decision.

**Ms Di Cocco:** When they've arrived at the decision.

**Mrs Munro:** I was just thinking that in terms of on-going issues, then obviously they would remain in camera; it would only be with regard to some kinds of decisions.

**Ms Di Cocco:** Yes.

**Mr Gill:** On this one, Ms Di Cocco, I'm a little confused as well. If there's a need for an in camera meeting, why would you publish minutes of it right after that?

**Ms Di Cocco:** It's not a matter of publishing the minutes, it's a matter of disclosing the decision taken. For instance, if there is a decision taken that property has been bought, that the deal has been done and there has been an expenditure of millions of dollars, the negotiations have gone forth etc, the minutes of the open meeting of that body should report what that decision has

been: that it was decided that a piece of property be bought and this was the cost.

**Mr Gill:** I know where you're coming from. I think the results certainly should be known, naturally—

**Ms Di Cocco:** The results; that's what I'm saying.

**Mr Gill:** —but not the minutes of the meeting.

**Ms Di Cocco:** No, no. The decisions taken at the meeting should be included in the public record is what I'm saying. But I agree with you. It's not that the minutes be made public but that the decisions taken be part of the public record.

**The Chair:** Any further discussion? Shall the amendment carry?

**Ms Di Cocco:** Recorded vote, please.

**Ayes**

Di Cocco, Martel, Patten.

**Nays**

Barrett, Gill, Maves, Munro.

**The Chair:** So that's defeated. Shall section 5 carry?

**Ms Di Cocco:** Recorded vote.

**Ayes**

Di Cocco, Martel, Patten.

**Nays**

Barrett, Gill, Maves, Munro.

**The Chair:** That's defeated.

Section 6: there are no amendments to section 6. Any discussion? Hearing none, shall section 6 carry?

**Ms Martel:** Recorded vote.

**Ayes**

Di Cocco, Martel, Patten.

**Nays**

Barrett, Gill, Maves, Munro.

**The Chair:** Section 6 is defeated.

Section 7: No amendments. Any discussion? Hearing none, shall section 7 carry?

**Ms Martel:** Recorded vote.

**Ayes**

Di Cocco, Martel, Patten.

**Nays**

Barrett, Gill, Maves, Munro.

**The Chair:** Section 7 is defeated.

Section 8: any amendments?

**Ms Di Cocco:** For section 8 there is an amendment.

I move that section 8 of the bill be amended by adding the following, and I think this is a repeat:



"Offence—head or chair

"(2) If the person who is convicted of an offence under subsection (1) is the head or chair of the designated public body, the maximum fine that may be imposed is \$2,500 and not as provided in subsection (1).

"Same

"(3) Subsection (2) does not apply unless the court is satisfied that the person who is convicted was, at the time of the offence, the duly elected, appointed or selected, as the case may be, head or chair of the public body."

**The Chair:** Any comments or discussion? Shall the amendment carry?

**Ms Martel:** Recorded vote.

**Ayes**

Di Cocco, Martel, Patten.

**Nays**

Barrett, Gill, Maves, Munro.

**The Chair:** The amendment is defeated.  
Shall section 8 carry?

**Ms Di Cocco:** Recorded vote.

**Ayes**

Di Cocco, Martel.

**Nays**

Barrett, Gill, Maves, Munro.

**The Chair:** It's defeated.

Section 9: any amendments to section 9?

**Ms Di Cocco:** There's an amendment, I believe, to section 9.

I move that section 9 of the bill be amended by striking out "Attorney General" wherever it appears and substituting "Information and Privacy Commissioner."

**The Chair:** Any discussion on the amendment? Shall the amendment carry?

**Ms Martel:** Recorded vote.

**Ayes**

Di Cocco, Martel, Patten.

**Nays**

Barrett, Gill, Maves, Munro.

**The Chair:** That's defeated.

Section 9, any discussion? Shall section 9 carry?

**Ms Di Cocco:** Recorded vote.

**Ayes**

Di Cocco, Martel, Patten.

**Nays**

Barrett, Gill, Maves, Munro.

**The Chair:** Section 9 is defeated.

Section 10: any amendments?

**Ms Di Cocco:** I move that section 10 of the bill be amended by striking out "Attorney General" wherever it appears and substituting "Information and Privacy Commissioner."

**The Chair:** Discussion? Shall the amendment carry?

**Ms Di Cocco:** Recorded vote.

**Ayes**

Di Cocco, Martel, Patten.

**Nays**

Barrett, Gill, Maves, Munro.

**The Chair:** The amendment is defeated.

Section 10: any discussion? Shall section 10 carry?  
I'm hearing a no.

A recorded vote has been requested.

**Ayes**

Di Cocco, Martel, Patten.

**Nays**

Barrett, Gill, Maves, Munro.

**The Chair:** It's defeated.

Section 11: seeing no amendments, is there any discussion on section 11? Shall section 11 carry?

**Ms Di Cocco:** Recorded vote.

**Ayes**

Di Cocco, Martel, Patten.

**Nays**

Barrett, Gill, Maves, Munro.

**The Chair:** Section 11 is defeated.

Section 12: an amendment?

1100

**Ms Di Cocco:** I move that section 12 of the bill be amended by adding the following subsection. Again, it states that if the person is convicted—do you want me to read this in?

**The Chair:** Yes.

**Ms Di Cocco:** OK.

"Offence—head or chair

"(2) If the person who is convicted of an offence under subsection (1) is the head or chair of the designated public body, the maximum fine that may be imposed is \$2,500 and not as provided in subsection (1).

"Same

"(3) Subsection (2) does not apply unless the court is satisfied that the person who is convicted was, at the time



of the offence, the duly elected, appointed or selected, as the case may be, head or chair of the public body.”

**The Chair:** Any discussion on the amendment to section 12? Shall the amendment carry?

**Ms Di Cocco:** Recorded vote.

#### Ayes

Di Cocco, Martel, Patten.

#### Nays

Gill, Maves, Munro.

**Interjection:** What about Barrett?

**Clerk of the Committee:** He’s only a substitute.

**The Chair:** I have a substitution notice for the committee that you were only eligible to vote until 11 o’clock and then you were replaced by Mr Spina, who has now entered the room.

**Interjection:** That cancels out the last five votes then, doesn’t it? It nullifies the last five votes.

**The Chair:** No. They were taken before 11:00.

Is Mr Spina voting on this?

All those opposed?

#### Nays

Gill, Maves, Munro, Spina.

**The Chair:** OK. The amendment is defeated.

Section 12. Shall section 12 carry?

**Ms Martel:** Recorded vote.

#### Ayes

Di Cocco, Martel, Patten.

#### Nays

Gill, Maves, Munro, Spina.

**The Chair:** Section 12 is defeated.

Section 13: seeing no amendments, is there any discussion on section 13? Shall section 13 carry?

**Ms Di Cocco:** Recorded vote.

#### Ayes

Di Cocco, Martel, Patten.

#### Nays

Gill, Maves, Munro, Spina.

**The Chair:** That’s defeated.

Is there an amendment to section 14?

**Ms Di Cocco:** Yes.

“On January 1,”—I think there’s a typo here—it says 2003. Is it? OK—“2003, Part II of the”—

**The Chair:** OK. I’m sorry. This is an addition to 14, because it’s labelled 14.1. Let’s deal with section 14 first. Any discussion on section 14 as printed in the bill? Shall section 14 carry? I’m hearing a no.

**Ms Di Cocco:** Recorded vote.

#### Ayes

Di Cocco, Martel, Patten.

#### Nays

Gill, Maves, Munro, Spina.

**The Chair:** So that’s defeated. Now, you have an addition to 14.

**Ms Di Cocco:** Yes.

“Repeal

“14.1 On January 1, 2003, Part II of the schedule to this act is repealed and the following substituted:

“Part II

“2. The following are types of designated public bodies for the purposes of this Act:

“Item number	Type of designated public body
1.	A conservation authority established by or under the Conservation Authorities Act or a predecessor of that Act.
2.	The board of directors of the Ontario Development Corporation, the Northern Ontario Development Corporation or the Eastern Ontario Development Corporation, as continued under the Development Corporations Act.
3.	A district social services administration board established under section 3 of the District Social Services Administration Boards Act.
4.	A district school board or school authority as defined in section 1 of the Education Act.
5.	A board of health as defined in section 1 of the Health Protection and Promotion Act.
6.	A commission as established under section 174 of the Municipal Act, 2001.
7.	A council of a municipality.
8.	A local board as defined in section 1 of the Municipal Affairs Act.
9.	A committee of adjustment constituted under section 44 of the Planning Act.
10.	A land division committee constituted under section 56 of the Planning Act.



11. A planning advisory committee established under section 8 of the Planning Act.
12. The board of directors, governors, trustees, commission or other governing body or authority of a hospital to which the Public Hospitals Act applies.
13. A public library board, a union board, a county library board or a county library co-operative board, or an Ontario library service board established or continued under the Public Libraries Act."

**The Chair:** Is there any discussion on the amendment? Hearing none, shall the amendment carry?

**Ms Di Cocco:** Recorded vote.

**Ayes**

Di Cocco, Martel, Patten.

**Nays**

Gill, Maves, Munro, Spina.

**The Chair:** The amendment is defeated.  
Shall section 15 of the bill carry?

**Ms Di Cocco:** Recorded vote, please.

**Ayes**

Di Cocco, Martel, Patten.

**Nays**

Gill, Maves, Munro, Spina.

**The Chair:** That's defeated.  
Shall section 16 carry?

**Ms Di Cocco:** Recorded vote.

**Ayes**

Di Cocco, Martel, Patten.

**Nays**

Gill, Maves, Munro, Spina.

**The Chair:** That's defeated.  
Are there any amendments to the schedule?

**Ms Di Cocco:** Yes. I move that the schedule be amended by striking out item 17 in part I and substituting the following:

- |     |   |  |
|-----|---|--|
| 17. | Board of directors of the Ontario Property Assessment Corporation | Section 2 of the Municipal Property Assessment Corporation Act, 1997 |
|-----|---|--|

1110

**The Chair:** Any discussion? Shall the amendment carry?

**Ms Di Cocco:** Recorded vote.

**Ayes**

Di Cocco, Martel, Patten.

**Nays**

Gill, Maves, Munro, Spina.

**The Chair:** The amendment is defeated.

Dealing with part I, then, of the schedule as printed.  
Any discussion?

Shall part I of the schedule carry?

**Ms Di Cocco:** Recorded vote.

**Ayes**

Di Cocco, Martel, Patten.

**Nays**

Gill, Maves, Munro, Spina,

**The Chair:** Part I is defeated.

Amendments to part II?

**Ms Di Cocco:** Yes. Since there's a substantial amount to be read here, could I move that it just be included?

*Interjection.*

**Ms Di Cocco:** No? I have to read it?

**The Chair:** You could move it, but if you want the amendment to be considered and be part of Hansard, you have to read it out.

**Ms Di Cocco:** OK. I will read it out.

I move the schedule be amended by striking out part II and substituting the following:

"Part II

"2. The following are types of designated public bodies for the purposes of this act:

"Item number	Type of designated public body
--------------	--------------------------------

- |    |  |
|----|--|
| 1. | A conservation authority established by or under the Conservation Authorities Act or a predecessor of that act.  |
| 2. | The board of directors of the Ontario Development Corporation, the Northern Ontario Development Corporation or the Eastern Ontario Development Corporation, as continued under the Development Corporations Act. |
| 3. | A district social services administration board established under section 3 of the District Social Services Administration Boards Act.   |



4. A district school board or school authority as defined in section 1 of the Education Act.
5. A board of health as defined in section 1 of the Health Protection and Promotion Act.
6. A board of control established under section 64 or 65 of the Municipal Act.
7. A commission as established under section 25.3 of the Municipal Act.
8. A council of a city, town, village, police village, township, county or municipality to which the Municipal Act applies, including a regional, metropolitan, upper-tier, lower-tier or district municipality and the county of Oxford.
9. A local board as defined in section 1 of the Municipal Affairs Act.
10. A committee of adjustment constituted under section 44 of the Planning Act.
11. A land division committee constituted under section 56 of the Planning Act.
12. A planning advisory committee established under section 8 of the Planning Act.
13. The board of directors, governors, trustees, commission or other governing body or authority of a hospital to which the Public Hospitals Act applies.
14. A public library board, a union board, a county library board or a county library co-operative board, or an Ontario library service board established or continued under the Public Libraries Act.
15. A local board as defined in section 1 of the Regional Municipalities Act."

**The Chair:** Any discussion on the amendment? Shall the amendment carry?

**Ms Di Cocco:** Recorded vote.

**Ayes**

Di Cocco, Martel, Patten.

**Nays**

Gill, Maves, Munro, Spina.

**The Chair:** The amendment is defeated.

Shall part II of the schedule carry as printed?

**Ms Di Cocco:** Recorded vote, please.

**Ayes**

Di Cocco, Martel, Patten.

**Nays**

Gill, Maves, Munro, Spina.

**The Chair:** That's defeated.

Shall the title of the bill carry?

**Mr Patten:** Is there anything left? What's left of the bill?

**The Chair:** Section 2 is left.

Shall the title of the bill carry?

**Ms Di Cocco:** Recorded vote.

**Ayes**

Di Cocco, Martel.

**Nays**

Gill, Maves, Munro, Patten, Spina.

**The Chair:** That's lost.

Shall I report that the bill not be reported to the House? The reason for that is we only have section 2 of the bill left, which makes the bill totally meaningless.

**Ms Di Cocco:** As I said, it's unfortunate that there isn't the courage to proceed with a bill that deals with open and accountable decision-making. I'm a little bit discouraged by, if you want to call it, the partisan nature of the voting—obviously, not even the title of the bill is considered adequate. But nonetheless, this is the process with which we must work. I don't know if the next process for me is just to withdraw the bill, as it is defeated, or what. Maybe the clerk can help me as to what the process is with regard to what happens from here.

**Clerk of the Committee:** The bill has been defeated by the committee. We can't amend the bill so that it's intelligible, and that's what has happened so far. We've defeated the bill. The Chair is going to put the question, "Shall the bill be not reported to the House?" and that decision has to be taken by the committee. It would be not reported. When we defeat a bill, we then report that it be not reported to the House, when we're reporting back.

**The Chair:** Since the bill makes no sense—we only have one section that refers to basically seven sections of a bill that no longer exist—the question that I'm putting is, "Shall I report to the House that the bill not be reported?"

**Ms Di Cocco:** Would it not be that the bill has been defeated at the committee level?

**Clerk of the Committee:** That's not the wording.

**Ms Di Cocco:** OK, then.

**The Chair:** People can make up their own minds from reading Hansard.

Shall I report that the bill not be reported to the House? Is there a request for a vote on that?



**Ms Martel:** Chair, I just want to be clear. There's no other mechanism for it to be reported that the bill was defeated in committee other than by the mechanism you're outlining to us?

**Clerk of the Committee:** That is correct.

**Ms Martel:** Ms Di Cocco has no other option?

**Clerk of the Committee:** If the committee didn't agree with the question that was just put, that the bill be not reported, that bill would still be before our com-

mittee. But we've defeated it. I'd have to check to see how we would proceed with a bill that doesn't really exist that's sitting in committee.

**The Chair:** I will ask the question again: shall I report that the bill not be reported? All in favour? Opposed? Carried.

That closes the open session of the public accounts committee for May 23.

*The committee continued in closed session at 1118.*







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of Ontario**

Third Session, 37<sup>th</sup> Parliament

**Assemblée législative  
de l'Ontario**

Troisième session, 37<sup>e</sup> législature

**Official Report  
of Debates  
(Hansard)**

Thursday 6 June 2002

**Journal  
des débats  
(Hansard)**

Jeudi 6 juin 2002

**Standing committee on  
public accounts**

Special audit report of  
Bruce nuclear transaction,  
Provincial Auditor

**Comité permanent des  
comptes publics**

Vérification spéciale  
de la transaction  
de la centrale nucléaire Bruce,  
Vérificateur provincial

Chair: John Gerretsen  
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## LEGISLATIVE ASSEMBLY OF ONTARIO

## ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON  
PUBLIC ACCOUNTSCOMITÉ PERMANENT DES  
COMPTES PUBLICS

Thursday 6 June 2002

Jeudi 6 juin 2002

*The committee met at 1107 in committee room 1, following a closed session.*

SPECIAL AUDIT REPORT OF  
BRUCE NUCLEAR TRANSACTION,  
PROVINCIAL AUDITOR

**The Chair (Mr John Gerretsen):** I'd like to call this meeting to order. Could we please have some quiet in here? Thank you very much.

Thank you for the great interest shown by everyone in the workings of the public accounts committee. We'll have the presentation of an opening statement by Mr Peters, and that'll be followed by questions that various members of the committee may have. Mr Peters, the floor is yours.

**Mr Erik Peters:** Thank you, Chair. On October 12, 2000, the standing committee on public accounts asked my office to examine all details of the leasing agreement between Ontario Power Generation and the Bruce partnership for the Bruce A and B nuclear plants. We were asked to do this to determine if the deal offers value for money for Ontario taxpayers. Since the mandate specifically stated we were to conduct our audit only once the agreement was completed, we could not begin our audit work until the fall of 2001.

The leasing arrangement is very complex and consists of a lease agreement and 52 ancillary agreements. As to value for money for Ontario's taxpayers, we reached three conclusions, which are as follows.

First, with respect to the competitive bidding process, we concluded that the process followed by OPG and the shareholder—that is, the provincial government as represented by the Minister of Energy, Science and Technology—was appropriate and consistent with standard business practices. The bidding process was competitive and included the involvement of several sources of expertise, and the highest bidder won the auction.

Second, with respect to whether the appropriate value was received by OPG and the shareholder for leasing the Bruce facility, we assessed and compared the present value of the future cash flows from the lease and from the status quo—"status quo" meaning if OPG continued to operate the Bruce facility. We calculated that, under the lease, the present value of OPG's cash flows would be about \$170 million less than under the status quo. However, we concluded that this amount is highly volatile,

because changes in the assumptions made to determine the difference in value between the lease and the status quo could dramatically change this amount. Specifically, changes in the assumptions relating to the following key factors can have a significant impact:

- (1) future electricity prices;
- (2) the number of years the reactors can operate without major refurbishment;
- (3) the level of ongoing capital and operating costs; and
- (4) the amount of electricity production lost due to maintenance downtime.

For example, a 10% increase in electricity prices would have increased the \$170-million difference in favour of the status quo to \$455 million. On the other hand, if the reactors operate four years less than estimated before needing refurbishment, then the \$170 million in favour of the status quo would change to \$85 million in favour of the lease scenario.

Although the present value of the cash flows under the status quo was higher than under the lease transaction, OPG and the shareholder decided to lease the Bruce facility after taking other considerations into account. Specifically, these are:

- (1) the lease provides a more stable and certain cash flow;
- (2) the lease would allow OPG to concentrate its improvement efforts on its other nuclear plants, for example, restarting Pickering A;
- (3) Bruce Power would set performance benchmarks for OPG management and its employees that, if achieved by OPG, would help improve the cash flows from OPG's other nuclear facilities; and
- (4) OPG was required to decontrol at least one of its nuclear facilities to meet the privatization target set for it by the government.

The third conclusion: we concluded that OPG's decision to accept lower but more certain earnings through the lease transaction will have a negative impact on the stranded debt of old Ontario Hydro. Using OPG's own words, "The contribution to net earnings from the Bruce nuclear generating stations has decreased by \$214 million before tax in 2001 compared to 2000." This loss in earnings, at least in the short term, significantly decreases OPG's contribution to the stranded debt. The impact of the loss in earnings is expected to be less in 2002, when the variable rent payment portion by Bruce



Power becomes effective, and of course thereafter when the variable rent payments are also affected.

As well, we observed that Bruce Power also obtained significant upside potential in acquiring the rights to Bruce A, which has been laid up since 1998 but which Bruce Power plans to restart and considers a significant business opportunity. OPG had decided not to restart Bruce A, at least in the near term, and factored only lay up costs for Bruce A into its cash flow calculations.

In a nutshell, OPG and the government, as shareholder of OPG, have accepted lower cash flows and lower earnings for the taxpayer from the Bruce nuclear facilities in return for less volatile cash flows, more stable earnings and a number of perceived benefits. I note that the value of one of these perceived benefits—namely, that of OPG being able to concentrate its improvement efforts on its other nuclear plants—is at present put somewhat into question by the publicly reported and significant cost overruns and delays being experienced in restarting the Pickering A nuclear plant.

Finally, the fact that the terms of the assignment allowed us to look at the Bruce transaction only after it was a done deal, as well as the fact that we were satisfied with the process followed in conducting the lease transaction, precludes us from making recommendations regarding the transaction. However, I would urge the government as a shareholder to take a very active interest in the cost overruns and delays being experienced in restarting Pickering A. The delays could drive up electricity prices, and the cost overruns can negatively affect OPG's cash flows and its contribution to reduce the stranded debt.

That ends my presentation.

**The Chair:** We now have approximately 13 to 14 minutes for each caucus to ask the auditor questions, and then we'll determine how to proceed with it next week.

**Mr Sean G. Conway (Renfrew-Nipissing-Pembroke):** Thank you, Mr Peters. Some of my colleagues will obviously join this as well. One of the terms of reference was to basically have you look at this deal and advise the Legislature and the people of Ontario whether overall the taxpayers got value for money for the lease at Bruce. I've got your statement. I've read your report. Do I understand your report to conclude that it's both too early to make a determination on the value-for-money aspect of this deal overall, and that there just were aspects and complexities that precluded you from making a final determination on that front? Is that the way I read your report generally?

**Mr Peters:** Yes, it's both. It's a number of assumptions. For example, the assumptions we show in our report on page 13, which talk about the changes of assumptions on the revised present values, show there are quite a number of variables that have to be taken into consideration, and, because they are future variables, it's tough to conclude at this point. But what we did find is that there had been due diligence in dealing with this at that time.

**Mr Conway:** On page 2 of your statement, and in your report as well, you make clear that the lease

arrangement that the Ontario government made with Bruce Power will in fact negatively impact, in the short term at least, the stranded debt of the old Ontario Hydro. Correct?

**Mr Peters:** That's what OPG has said in its own annual report.

**Mr Conway:** And you accept that?

**Mr Peters:** Yes.

**Mr Conway:** The figure that is cited from the OPG report is \$214 million. Do we read that to mean that the stranded debt is increased by that amount?

**Mr Peters:** No, it would be somewhat different. Under the transaction, under the stranded debt defeasance plan, OPG, Hydro One, IMO and all the successor companies of the old Ontario Hydro are supposed to turn their earnings over to the Ontario Electricity Financial Corp in order to help it defease the stranded debt and, in effect, in order to pay off the debt of OEFC. It simply means that the amount that was available was reduced. But that may not necessarily impact on the bottom line to the full extent of the \$214 million, because it's the combination of Hydro One and everybody else. This \$214 million, in net, has reduced the earnings that were turned over.

**Mr Conway:** Two further questions, very quickly. On page 4 of your report you note that under the specific arrangements of the lease agreement, on May 11, 2001, Bruce Power paid \$370 million to the Ontario government.

**Mr Peters:** That's right.

**Mr Conway:** On page 4, you indicate that that money is supposed to be paid—passed through, basically—by the government to the Ontario Electricity Financial Corp.

**Mr Peters:** That's right.

**Mr Conway:** But as of the writing of this report, which is presumably a full year or thereabouts after the payment was made by Bruce Power to the Ontario government, your information is that the Ontario government has not yet passed that \$370 million through to the Ontario Electricity Financial Corp.

**Mr Peters:** Yes, that's right. It hadn't been paid at the time we wrote this report.

**Mr Conway:** So the Ontario government's books are showing a \$370-million item, which was received over a year ago, that is supposed to have been passed on to the Ontario Electricity Financial Corp for the stranded debt?

**Mr Peters:** Yes. It was our understanding that it should have been passed on and it had not yet been done.

**Mr Conway:** A final comment: the committee sent you to Bruce, but you seem to have some very telling and troubling things to say about Pickering. I note, for example, that in your report you use the lease and compare it, sensibly, to the status quo, and you describe the status quo as a condition whereby Ontario Power Generation would have continued to operate the nuclear power stations after a fashion at Bruce as they are doing at Darlington and Pickering. Is that a fair representation?

**Mr Peters:** That's right.



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**Mr Conway:** I want to go to the final paragraph of your statement: "Finally, the fact that the terms of the assignment allowed us to look at the Bruce transaction only after it was a 'done deal,' as well as the fact that we were satisfied with the process followed in conducting the lease transaction preclude us from making recommendations regarding the transaction." Now this is really important: "However, I would urge the government," and presumably the Legislature, "to take a very active interest in the cost overruns and delays being experienced in restarting Pickering A. The delays could drive up electricity prices, and the cost overruns can negatively affect OPG's cash flows and its contributions to reduce the stranded debt."

Could you help me and the committee understand more fully what we need to take from your warning here about Pickering?

**Mr Peters:** Firstly, I quite carefully phrased that with the word "reported." We did not do an audit or examine what is happening at Pickering. But the reported facts about Pickering are that apparently the costs have gone from \$800 million to \$2.2 billion, and there's also a delay in the starting up of the plants such that, for example, last summer OPG had to purchase power from abroad to meet peak demand in the province of Ontario.

What I did link it to was the fact that we were told the other considerations that were given to accepting the Bruce deal were that it would free up resources of OPG to better operate and improve its other nuclear plants. This is why I made the linkage between freeing up the resources of Bruce and what is currently happening at Pickering.

**Mr Conway:** So it's fair to conclude from your observations that, as Provincial Auditor, you're concerned about the reports coming out of Pickering about delays and cost overruns and the impact, particularly of those cost overruns and delays, on electricity prices, stranded debt and related issues?

**Mr Peters:** Yes. They bear active supervision.

**Mr Bruce Crozier (Essex):** Just one quick question, Mr Peters, because there are some subtle parts of the report that I don't want us to miss. On page 19, under "Nuclear Plant Decommissioning and Waste Liabilities," you point out that as of December 31, 2000—and we're now about a year and a half after that—there was an unfunded liability with a present value of about \$3.6 billion. Can you explain for me and the committee the significance of that unfunded liability?

**Mr Peters:** What it represents is the amount that OPG had set aside for nuclear plant decommissioning and disposal of nuclear waste at the time of decommissioning. This amount was, at the time, measured for the nuclear fleet to be in the range of \$6.2 billion. That was after taking a segregated fund balance of \$781 million into account, of which \$300 million was allocated to the Bruce facility.

Also, as part of the reconstruction, \$2.6 billion of this amount was allocated to the Ontario Electricity Financial

Corp and features, therefore, in the stranded debt of the province. Does that answer your question? I hope it does.

**Mr Crozier:** Well, kind of. Sure it does. At the beginning of that paragraph, when you point out that the present value of the total liability for committed costs is \$7 billion, and we talk about stranded debt and total debt being in the area of \$28 billion, would that be in addition to that?

**Mr Peters:** No, \$2.6 billion is in the stranded debt and the balance is retained by OPG.

**Mr Crozier:** OK.

**Mr Richard Patten (Ottawa Centre):** My question deals with the wholesale price of electricity and your commentary on the interjurisdictional charges, particularly as we have Michigan and New York linked to our grid. That says to me that what we're heading for long-term is really North American prices. The idea of having some independence in our pricing arrangements is probably going to go out the window as the grid becomes more interrelated with some of the neighbouring states.

First of all, you comment that the predictability of prices right now is the usual population trends, weather or that kind of thing. But the prognosis for electricity in the United States, and also in Canada, I guess, is that there are upward pressures in the long term, are there not, and will this not lead essentially to a North American price structure?

**Mr Peters:** I can probably agree with the last part of your sentence, that there will be some sort of convergence. Whether it will go up or down, I would be speculating. I don't think I would be willing to speculate whether the price structure will go up or down. Convergence is what we put into the report, and that's probably the way—

**Mr Patten:** In other words, we're going to be paying American prices.

**Mr Peters:** Yes. But currently, for example, some of our neighbouring states have lower electricity prices.

**The Chair:** Mr Bryant, you have two minutes left.

**Mr Michael Bryant (St Paul's):** You make reference in the last paragraph to the fact that you only went in after it was a done deal in Bruce. Is it your recommendation that for future commercialization or future electricity reform on the generation or the transmission side, the auditor should be getting involved before it's a done deal?

**Mr Peters:** We normally don't, because we think that's a management prerogative. I made that statement only to explain that we were charged by the committee to both report our findings and make recommendations. If we had found, for example, that the process was flawed, we would have made recommendations—after the fact, admittedly—so that this could be taken into consideration in future deals, but that would be the preferred way for us to proceed.

**Mr Bryant:** Preferred, but you could get involved before it's a done deal?

**Mr Peters:** No, preferably not. Under the terms of independence of my office, I don't think we should get involved in management decisions before they're made.



**Mr Bryant:** The other question is with respect to the value of the perceived benefits of the Bruce deal being put into question by what's going on in Pickering. Could you expand on what you mean by that? How is it that the perceived benefit in fact has been compromised by what's happening in Pickering?

**Mr Peters:** They have said that one of the benefits would be that they could now focus on doing the job better at the other nuclear plants. What I wanted to bring out is that there are concerns expressed, or at least being reported, about what is going on at Pickering. I wouldn't say it's compromised, but I would say it bears watching.

**Mr Bryant:** I understand that, but you did say that the value of the perceived benefits was being put into question. I understand it bears watching, but in what way is it being put into question?

**Mr Peters:** There is also an underlying difficulty. If you had more staff or more resources now to operate your nuclear plant—but there were some considerations that we found. For example, at the Bruce plant only 200 people were retained by OPG. Like, 3,000 joined Bruce Power. So we started to look at the resource question in that particular regard. The other one is also that since the deal was started on May 11, 2000, and these reports about Pickering are coming out since that time, I use the words "puts into question" really to put you on notice.

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**Mr Howard Hampton (Kenora-Rainy River):** Mr Peters, I wanted to ask you, first of all, about your point where you indicate that the decision to lease "will have a negative impact on the stranded debt.... Using OPG's own words, 'The contribution to net earnings from the Bruce nuclear generating stations has decreased by \$214 million before tax in 2001 compared to 2000.'" You then point out that you'll have to look at this in the future because other factors will come into it. But that's just a one-year figure. That's a \$214-million loss, as I understand it, to bringing down the stranded debt in one year. Looking ahead to 2002-03, are you able to give us any sense—will the contributions to stranded debt continue to be less than they would have been had OPG and the government retained control?

**Mr Peters:** Numerically, it will reduce. The \$214 million is in two aspects a one-shot deal. First, it is the only year in which they actually operated the lease and the plant, and they compare 2000 with the plant. They won't be able to do that in future because Bruce is gone.

The second part is that there were significant amounts in there. For example, it also included the spare parts inventory and other pieces that were ancillary to the plant that were transferred over. That was included, for example, in any variation in the book value, and the net realizable value was included in this \$214 million.

The second point is that in that year the variable portion of the lease payments did not kick in. So in future, as the variable portion kicks in, the lease payments will increase and therefore the potential reduction in earnings that they have given up will be less, but it will be there.

**Mr Hampton:** Can you estimate how much that reduction will be?

**Mr Peters:** I would have to take a crystal ball, and mine is no better than anybody else's on that one, but it definitely is a reduction.

**Mr Hampton:** Do you regard it as significant that the loss—in other words, the reduction in payments on the stranded debt in one year—is \$214 million less? Do you regard that as a significant reduction when you consider these leases run for 18 years?

**Mr Peters:** It is a big amount, but it is very tough to measure the trade-off in risks that has actually taken place. What risk is the taxpayer taking by having OPG continue to operate the Bruce facility versus leasing it out? What we're pointing out is that the risk is reduced, but that means they reduce both: the upside of higher earnings as well as the downside of lower losses.

**Mr Hampton:** I want to ask you a question that you referred to in your report. It is a press release by British Energy, and basically they report that they acquired the assets of Bruce Nuclear on May 12, 2001. They then did a report of profit on March 31, 2002, and they indicate that \$100 million of their profit in that nine-and-a-half month period came from Bruce Nuclear. A \$100-million profit in nine and a half months seems like a fairly significant profit.

**Mr Peters:** It also depends on the measurement of the profit, as to how they deferred costs and how they determined their net earnings in this particular period of time. We were interested in their number and of course have put it into our report. But since that time I understand that in the first quarter of 2002, Bruce has reported losses. We also understand there is a significant outage in the second quarter. So it made it a little bit less appropriate, if you will, to put it into our overall conclusion. It also points to the significant risks that were shared between the two partners.

**Mr Hampton:** I want to take you to page 13 of the report. You estimate that if electricity prices increase by only 10%—and let's be clear, these are wholesale electricity prices. If the wholesale electricity price increases by only 10%, what the government would have gotten, by your calculations, is \$565 million more money.

**Mr Peters:** That's right.

**Mr Hampton:** They would get more under the lease. They would get about \$280 million more under the lease, but they would have gotten \$565 million more if they had retained control.

I've been out there talking to school boards, hospitals and the Toronto Transit Commission. All of them are saying that when they talk to their advisers, their consultants, the consultants are all saying, "Look at at least a 10% increase. Start budgeting for at least a 10% increase in your electricity costs, and more likely a 20% increase in your electricity costs."

I just happen to have a piece—this is Alberta—from the National Post, May 30, 2002. The headline is: "Power-trading firms can manipulate prices." They talk



about how profit-driven companies in Alberta are withdrawing some of their generating capacity to drive up the price. A 10% increase in wholesale hydro prices: is that an unreasonable projection to make?

**Mr Peters:** I should back you off a little bit, because they did have advice on electricity prices. They already built price increases into their calculations as they were going along. What we are talking about here is a 10% increase over and above the assumptions they have already made in there. So it's not just that it's the current price plus 10%. It really relates more to the fact that when they did it, they had an electricity price curve they took into consideration in making their calculations. What we are pointing out here is if there is a 10% increase over and above the price they estimated, that would be the impact.

**Mr Hampton:** The excerpt you include on page 15 of the article, where you cite, "Primary factors affecting the wholesale price of electricity"—I just want to get your comment on one part of it. This is about generating costs: "However, in the long term, increased demand is expected to make the full cost of generation (the marginal cost of generating electricity plus an amount sufficient to cover" overhead costs "and a return on investment) the more important influence." So in terms of people's electricity prices, the cost of generating power is going to be the major determinant?

**Mr Peters:** Yes, it's a major component of the price.

**Mr Hampton:** Then just a little further up, it says, "It is the view of forecasters that over time, and subject to intertie capacity and interjurisdictional charges, the price of electricity in Ontario and its neighbouring states will converge."

**Mr Peters:** That's right. That's an explanatory comment we provided.

**Mr Hampton:** I just want to ask one other question here. You note in your discussion that there is another way of valuing electricity generation assets; it is by comparative pricing. But you said you didn't use that method because American nuclear plants are physically different from Candu reactors and because some of the regulations are different in the United States. Is that right?

**Mr Peters:** Yes, and other factors; for example, age of plants and things like that.

**Mr Hampton:** What I find interesting is that other people have looked at the comparative valuation. If you look at US atomic plant sales announced during the year 2000—when this one was announced—the price for nuclear plants ranged from US\$365 per kilowatt hour of capacity to US\$515 per kilowatt hour of capacity. If you look at the Bruce generating station, all in, it would have worked out to about US\$200 per kilowatt hour of capacity. Is that a fair—

**Mr Peters:** The side question was whether Bruce B and Bruce A were included.

**Mr Hampton:** No, That's the all-included. That's Bruce A and Bruce B.

**Mr Peters:** OK. Fair enough. Do you think that's right?

**Mr Gary Peall:** Approximately.

**Mr Peters:** Yes.

**Mr Hampton:** What I find interesting is when I read some of British Energy's press releases—and I think you actually point this out in your statement, too—even though Bruce A is, for all intents and purposes, down, British Energy regards Bruce A as having huge upside potential. Is that a fair assessment?

**Mr Peters:** That's what they say. We have to be alert to the fact that they are communicating with their shareholders and are asking their shareholders for a massive investment.

**Mr Hampton:** The last time I checked, when you communicate with your shareholders you're not allowed to make misleading or untruthful statements. Otherwise, you can go to jail for 10 years.

**Mr Peters:** I'm not challenging their truthfulness. I'm saying they are justifying with that statement a \$1.2-billion investment that they're looking.

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**Mr Hampton:** I also understand when I read the press reports—I think it was Merrill Lynch that advocated, after the signing of the Bruce deal with British Energy, that investors go out and buy British Energy shares because British Energy got such a good deal on Bruce A.

**Mr Peters:** It certainly looks very good for them right now, but as I pointed out, the first quarter of 2002 isn't that good and we don't know what will happen in the future.

**Mr Hampton:** I would say to people who are out there looking at the speculative energy market, we're at a time period when people don't need to turn the lights on at 6 o'clock in the evening because it's still light out, you don't need to have the electricity on for heat because it's not cool enough and you don't have to have the electricity on for the air conditioning because it's not hot enough. This is a period where people aren't going to be using a lot of electricity. With most of our softwood lumber mills and a lot of our paper mills shut down because of the American duties, there's not a lot of electricity being used there. But those aren't normal circumstances. Would you agree with me?

**Mr Peters:** I agree with you. Also, a smart operator would probably use that period of time to do most of the maintenance and overhaul.

**The Chair:** One final question, Mr Hampton.

**Mr Hampton:** I just want to go back to your statement, which is included in your opening statement but is not part of the study, where you refer to Pickering. At the bottom of your statement, you say that because of what has happened at Pickering, and I think this is the last sentence, "The delays could drive up electricity prices."

**Mr Peters:** That's right.

**Mr Hampton:** Can you elaborate on that and what impact that would have in terms of the Bruce energy deal?

**Mr Peters:** It's a tough one to answer for one reason: we don't know what deals Bruce has struck for its output.



If some operators actually enter into long-term arrangements, like when they go into a deal like this, they may strike supply deals or deals with potential suppliers to secure a certain revenue stream themselves at that time. We don't know whether Bruce has done that or what the price structure of those consists of.

On the other hand, the performance of OPG itself was not quite as expected for the last fiscal year. One of the reasons was that the original plan, if I understand correctly, was that Pickering A would be on stream by March 2001.

**Mr Hampton:** So in your view, is there is a significant possibility or likelihood or potential that we could in fact see the market conditions for significant increases in the price of electricity?

**Mr Peters:** That would be speculative. I'm dealing more with what actually happened last year, where we were in a situation where OPG actually had to go outside and purchase power. It is speculation on my part because I haven't examined it, but I think those purchases would at least have been reduced if Pickering A had been on stream. In fact, they would have had their power to put into the market.

Also, the normal earnings performance of OPG, of generating facilities, be they fossil fuel or nuclear—it doesn't make much difference, but normally you expect low earnings or even losses in the winter and high earnings in the summertime at peak consumption. The hope was that the plant would be on stream at that time.

**The Chair:** I'll have to leave it at that.

**Mr Bart Maves (Niagara Falls):** Thank you, auditor. I can't wait to get the Hansard for this because, effectively, Mr Hampton has just argued for the status quo and higher prices to reduce debt, and Mr Conway is arguing to privatize Pickering because Bruce is more efficient operationally on the capital side.

**Mr Conway:** With all due respect, sir, that's not what I said.

**Mr Maves:** I know you didn't say it, but that's what you argued for.

Auditor, returning to the report, you said that over a 14-year period it looks like the province will get \$170 million less revenue. Of that, \$160 million goes to the federal government in taxes, correct?

**Mr Peters:** That's right.

**Mr Maves:** So rather than accruing to the provincial government, it will accrue to the federal government. The upside that hasn't really been talked about—and you talked about direct and indirect benefits in your report—is that we've already received in this province \$800 million in capital investment to refurbish and bring Bruce B on-line, is that not right?

**Mr Peters:** Or will be investing—I'm not sure what state they're in. But you're right.

**Mr Maves:** Also, they're investing another \$400 million of that in Bruce A—which is another 1,500 megawatts—which OPG had no intention of bringing back on-line when we went into this. So we're getting a

\$1.2-billion capital investment from this firm and, with that, more power on the grid, correct?

**Mr Peters:** That's right.

**Mr Maves:** When you get increased power on the grid, you get more supply and a lower price. The price for power right now is already down about 30%, on average, in Ontario. One of the things you said in your report, in the chart on page 13 which Mr Hampton talked about, was that the province received substantially reduced risk and more stable prices. If I take a 30% decline in price, which is what we've experienced, under the status quo the province would have received \$1.7 billion less, whereas under the lease agreement it would receive about \$765 million less. I'm just multiplying those numbers by three. Is that not correct?

**Mr Peters:** I'm not sure about the factor of three, but there certainly is a price—why I have difficulty answering that question is because I'm not sure what price assumptions they made in the actual calculation; what the base price assumptions were. They may have already discounted or reduced the electricity price on market deregulation in their assumptions. What I want to point out is that table 4 really reflects a departure from the assumptions that they made. If the assumptions were to change by these percentages, that is what would happen. I hope I'm not confusing you too much.

**Mr Maves:** By keeping Bruce OPG-owned and -operated, the benefit of a price increase accrues entirely to OPG and therefore the province; that's why it's a higher number. But when you lease it out, you get less accrual. On the flip side, though, we've protected ourselves from a loss if the price goes down.

**Mr Peters:** That's right.

**Mr Maves:** And we want the price to go down, because we want our consumers to pay a lower price. That's why you said we've reduced risk substantially and guaranteed ourselves more stable revenues.

**Mr Peters:** That's right.

**Mr Maves:** Another thing that's in your report, and again this kind of speaks to Mr Conway's comments, is that you said one of the key things was that OPG wanted a world-class operator because it would provide a benchmark with which they could benchmark their own facilities. Bruce B was operating at 79% capacity. It's now operating at 83%. It speaks to Mr Conway's point about efficiency. Similarly, on the capital side Bruce Power has said it will take \$340 million to \$400 million to bring Bruce A on, whereas the capital expenditures assumed to bring Bruce A back on by OPG were higher, \$600 million. Indeed, Bruce Power has invested money on the capital side and already started to realize enhanced production from Bruce B, whereas Pickering is still at work.

Your concern was that they are supposed to spend more time and attention on Pickering, and even though they're spending more time and attention on Pickering, it's taking longer for them to get it up and going, correct?

**Mr Peters:** That's right.



**Mr Maves:** Whereas the private operator is turning around very quickly and at a lower cost. That's why I say Mr Conway's argument is basically in favour of Bruce Power taking over Pickering.

**Mr Conway:** I didn't say that.

**Mr Maves:** He didn't say that; those weren't his words.

**Mr Conway:** There are some very interesting issues arising out of this report about Pickering that we should explore; I agree with that.

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**Mr Maves:** It's my time, Mr Conway.

**Mr Conway:** You can't just throw these—

**Mr Maves:** Sure I can.

**Mr Conway:** —misrepresentations.

**Mr Maves:** No, I did say I can't wait to get the Hansard.

**The Chair:** Do you want to debate this with Mr Conway, Mr Maves?

**Mr Maves:** No, no.

**The Chair:** OK. You've got the floor.

**Mr Maves:** I'm going to turn some of my time over to Mrs Munro and Mr Hastings.

**Mrs Julia Munro (York North):** One of the things that I feel is important to clarify here—much discussion has centred around the table on page 13. It seems to me that the importance for us in examining this is to look at the fact that it's an apples-to-apples chart. While we can talk about the fact that it is based on assumptions, the key here is the fact that it's based on a common set of assumptions. So to take one number out is to take it out of the context of the legitimacy of the assumptions.

I think the important thing for us to understand is that by this you are demonstrating the fact that the decision made by the government to look at a lease plan that provided less risk is in fact demonstrated by the kind of assumptions that you have put here. I consider that to be extremely important to the validity of the whole project, because that was why you were asked originally to look at this.

I wonder, though, when you were looking at taking into account the kind of impact this had, whether your report would also include anything to do with the kind of increased economic activity in the community. We were told by Bruce Power that the benefit of their increased investment comes to somewhere around—obviously new dollars in the community and also a significant increase in employment. I wondered if any of those assumptions had been built into your report.

**Mr Peters:** First I'll make a comment and then, Gary, if you want to make any additional comments.

At the time when this assessment was carried out, those were not, if you will, on the books yet. These are subsequent events. We were looking at the transaction and its approval. So subsequent events were not taken into consideration, although in our discussions with both the shareholders' representatives and the OPG senior management, they put in the point you're making, that

there would be a benefit from their investment and overall the province would be ahead.

**Mrs Munro:** Earlier you referenced the fact that being asked to do this at this particular time is something of a work in progress, and I appreciate that that would be part of it.

We have an idea in terms of the potential for Bruce A, and I wondered whether or not your report placed any kind of dollar figure on the ability of Bruce A. I think that in here you refer to the potential of Bruce A coming on stream. Is there anywhere in your report where you place a figure on the benefit of that?

**Mr Peters:** On the benefit of putting Bruce A on stream?

**Mrs Munro:** Yes.

**Mr Peters:** To begin with, under the mandate we deliberately restricted ourselves to the way Bruce A was calculated. What we are pointing out is that Bruce A—they only took the layout costs into consideration at that point.

The other part would be very difficult for us to do, because it really required an almost independent engineering study. As you can tell, the experts are already way apart on this one. The experts at OPG said it would cost \$600 million, and the experts at Bruce Power said \$400 million. We don't have the expertise to contradict either.

**Mr John Hastings (Etobicoke North):** Mr Peters, you were assigned the task by public accounts from Ms Martel's motion to examine all the parameters of the Bruce deal. I think there are some unrealized and disappointing expectations coming out of this report.

The question I wanted to ask you revolves around the auction process. Did we have an effective, businesslike, industry-standards type of auction process in determining whether British Energy should be the highest bidder?

**Mr Peters:** Yes, we did. We concluded that the process was in accordance with industry standards and was properly conducted.

**Mr Hastings:** As you show in the report on page 7.

**Mr Peters:** That's right.

**Mr Hastings:** What I'm most curious about, though, is Bruce A. Bruce A is at this moment mothballed. It's sitting there as an asset, as your report indicates, with a negative financial value because they're not producing any power, correct?

**Mr Peters:** That's the assumption. When the calculations of cash flow were made, that's what they assumed.

**Mr Hastings:** There's a certain premise in the so-called debate around the Bruce deal that if OPG were operating Bruce A, we would obviously have more power. Why is it, then, that Bruce A isn't being operated by OPG and that OPG has concluded, based on the figures in the documents they provided you, it would cost at least \$600 million to get the thing going again? Why isn't OPG doing it if it's such a great unrealized opportunity, as Mr Hampton asserts? Why isn't OPG doing it right now?

**Mr Peters:** That is for their board and the shareholders to decide. They went forward with these numbers



to the board and the shareholders and they decided they would not proceed.

**Mr Hastings:** So how is Bruce A, mothballed as it is, producing any positive impact on reducing the stranded debt by not operating?

**Mr Peters:** At this particular point in time?

**Mr Hastings:** Yes.

**Mr Peters:** It is actually a drain on the earnings of OPG because of the lay-up costs.

**Mr Hastings:** That brings us back to the whole premise of this report. What is it entitled? What were you tasked to do by the committee?

**Mr Peters:** We were asked to report whether—

**Mr Hastings:** To deal with the nuclear problem at Bruce, right?

**The Chair:** The motion, as set out on October 12, precisely said what he was instructed to do.

**Mr Hastings:** Exactly. Does that motion have anything in it that the committee tasked you, as a public auditor, to look at Bruce and Pickering together?

**Mr Peters:** No.

**Mr Hastings:** Precisely. Thank you.

**The Chair:** With that, you've used up your time.

In the last two minutes the committee has, is it the wish of the committee to continue with this report next week? We've had a verbal request—and it's just a verbal request so far—that the Minister of Energy wishes to address the committee on this matter.

**Mr Maves:** I don't think that's an accurate accounting of his verbal request.

**The Chair:** I just want to let you know there may be people who want to appear in front of this committee on this issue. So it's up to the committee to decide whether you want to continue this next week or whether you want to go back and do report writing.

**Mrs Munro:** I would just suggest to you that we really do have an extraordinarily busy schedule for the rest of our designated sitting time, in terms of our other responsibilities.

**The Chair:** I'm sorry. Did you want to continue next week or not?

**Mrs Munro:** No.

**Mr Maves:** Let's stick with the schedule, and then, at a future date, if we want to, the subcommittee can talk about it.

**Ms Shelley Martel (Nickel Belt):** I would prefer to deal with this again next week, so I'm raising a different point of view.

**The Chair:** If there's no motion, then the schedule will be proceeded with.

**Mr Hastings:** It's a matter for the subcommittee to deal with, Mr Chairman.

**The Chair:** The problem is that the subcommittee meets next Wednesday, and if the subcommittee report is endorsed, or whatever, on Thursday, obviously there's nothing that can happen on Thursday, because you can't all of a sudden put something in motion on a moment's notice.

**Ms Martel:** I'll move a motion that the standing committee on public accounts meet next Thursday morning to continue its consideration of the special audit done by the auditor on the Bruce nuclear transaction.

**The Chair:** Is there a seconder?

**Mr Patten:** I second it.

**The Chair:** All in favour of that motion?

**Ms Martel:** Recorded vote.

**Clerk of the Committee (Ms Tonia Grannum):** You know what? You can't make that motion.

**Interjection:** She can't make that motion?

**Clerk of the Committee:** Yes, because you're not subbed on.

**Ms Martel:** But I'm a committee member.

**Clerk of the Committee:** I've got a sub-slip from Mr Hampton for Ms Martel for the duration.

**Interjection:** Then I'll make the motion.

**The Chair:** OK.

**Mr Maves:** The motion will be that the standing committee on public accounts continue with its schedule as planned.

**The Chair:** Is there a seconder for that?

**Clerk of the Committee:** No seconder.

**The Chair:** OK, no seconder. But just for the record, the way we had it planned is that we would continue with report writing, but we also stated that if the committee continues to deal with the Bruce request in subsequent meetings and draft reports, we will push back a week. So it was tentatively on the agenda as well, but you're basically suggesting that we go into report writing next week.

**Mr Maves:** That's right.

**The Chair:** OK.

#### Ayes

Hastings, Maves, Munro, Stewart.

#### Nays

Crozier, Patten.

**The Chair:** That's carried.

Thank you very much for attending.  
*The committee adjourned at 1201.*





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Mr R. Gary Stewart (Peterborough PC)

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Mr Sean G. Conway (Renfrew-Nipissing-Pembroke L)

Mr Howard Hampton (Kenora-Rainy River ND)

#### **Also taking part / Autres participants et participantes**

Mr Erik Peters, Provincial Auditor

#### **Clerk / Greffière**

Ms Tonia Grannum

#### **Staff / Personnel**

Mr Ray McLellan, research officer,

Research and Information Services

Mr Michael Brennan, Office of the Provincial Auditor

Mr Gary Peall, Office of the Provincial Auditor

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## Legislative Assembly of Ontario

Third Session, 37<sup>th</sup> Parliament

## Assemblée législative de l'Ontario

Troisième session, 37<sup>e</sup> législature

# Official Report of Debates (Hansard)

Thursday 27 June 2002

# Journal des débats (Hansard)

Jeudi 27 juin 2002

## Standing committee on public accounts

Public Sector Employees'  
Severance Pay  
Disclosure Act, 2002

## Comité permanent des comptes publics

Loi de 2002  
sur la divulgation des indemnités  
de cessation d'emploi  
des employés du secteur public

Chair: John Gerretsen  
Clerk: Tonia Grannum

Président : John Gerretsen  
Greffière : Tonia Grannum





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## LEGISLATIVE ASSEMBLY OF ONTARIO

## ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON  
PUBLIC ACCOUNTSCOMITÉ PERMANENT DES  
COMPTES PUBLICS

Thursday 27 June 2002

Jeudi 27 juin 2002

*The committee met at 1009 in committee room 1.*

**The Chair (Mr John Gerretsen):** I'd like to call the standing committee on public accounts to order to deal with clause-by-clause consideration of Bill 53. I'd ask for an opening statement by Ms Bountrogianni, the sponsor of this bill.

**Mrs Julia Munro (York North):** I want to raise the issue of the agenda this morning and the decision, which I'm not aware of, to do this morning's agenda in this order. I'd suggest to you, given that we have found ourselves partway through the draft report of the Ontario Innovation Trust, that it would seem more logical to proceed with that and then go to Bill 53. I know there was discussion on including Bill 53 in our deliberations today, but I would submit to you that it would be more appropriate to do them the other way around.

**The Chair:** That may be so, but just for the record I should state that there was a notice sent out from the Clerk's office on May 16 to all members of the committee to the effect that Bill 53 was to be scheduled for one of the meetings in June, the date to be determined. It was agreed that the deadline for the filing of amendments regarding Bill 53 be May 24.

Then another notice was faxed on June 13—two weeks ago today, the day I got ill, and the meeting was adjourned—at which time there was general discussion prior to that and, as a result, the committee schedule was faxed to everybody on the committee that day, which said that on June 27 there would be clause-by-clause consideration of Bill 53, Public Sector Employee Severance Pay Disclosure Act, 2001.

I know that last week when I wasn't here—I was dealing with my own private member's bill in the House—Mr Maves raised the issue that this came as a surprise, but these issues were discussed, and what I've quoted to you is what was agreed upon and faxed to everybody. If the committee wants to change that, it's up to the committee to do so. But for the record I should state that's the information that went out to everybody, and so it should not have been a surprise that we were going to deal with it today. However—

**Mrs Munro:** I'm not suggesting it was a surprise. I know we did have those discussions and I was in receipt. My concern is simply the order. I would prefer to finish the draft report, or at least spend the time on the draft report, and then go to the clause-by-clause.

**The Chair:** Any further comments?

I've just been informed by the clerk that we are in open session right now. If we go to the report, we'll have to be in closed session, and if we go into open session later we'll have to bring the recording people back. But as long as it's understood and if nobody has any objection or any comments—

**Ms Shelley Martel (Nickel Belt):** Chair, is the suggestion to go to Innovation Trust and then to clause-by-clause? Is that the suggestion?

**The Chair:** The suggestion is that we finish the Innovation Trust draft first and then go to clause-by-clause of Bill 53.

**Ms Martel:** The member is here and we've only got four amendments. It's a two-page bill and, if I recall, there was unanimous support for the bill, so I don't see that this is going to take us very long. I think we should just get to it. We'll get it done, and then we can move to Innovation Trust.

**The Chair:** Any further comments?

**Mr R. Gary Stewart (Peterborough):** I'm looking at the agenda of June 20, and it is suggested that agenda was—I assume it progresses accordingly. That particular day we were considering the road user safety program, and the next thing on the agenda was the Ontario Innovation Trust. So I assumed, in my small way, that's the progression we make, and I was very surprised when I saw the agenda come out this way, that it had been turned around. I thought at one point when we left the other day that there was going to be some discussion on the report of the final recommendations on the road safety one, that the wording was going to be given back to us on the changes that were made.

**The Chair:** The normal practice is that once the legislative research has been done—

**Mr Stewart:** I'm the new guy on the block, so that's why I'm asking.

**The Chair:** —it had an opportunity to go through the draft amendments, and that report will come back. But it doesn't necessarily come back immediately the next week.

**Mr Stewart:** That's my misunderstanding then. I assumed it was to do that, and then we were going to go to the Innovation Trust, because it is on the schedule for the 20th, and then move to 53 afterwards.

**Mrs Marie Bountrogianni (Hamilton Mountain):** Unless there's something I don't know and there is disagreement with the bill, this won't take long. I don't



have large statements to make. I actually have one statement to make and then will move the amendments.

**The Chair:** I'm at your disposal. What do you wish to do?

**Mrs Bountrogianni:** I was also told, and I've got the agenda, that at 10 am I should be here to do this. Actually, I think it's rude. What's happening now is quite rude, on a non-political level; it's just rude.

**Mrs Munro:** I would go back to my earlier position and request—although I can make a motion—that we do this in the order I have suggested.

**The Chair:** Could we have your motion then, please?

**Mrs Munro:** Certainly. I move that we consider the draft report of the Ontario Innovation Trust as the first item of our agenda and that the second item of our agenda be clause-by-clause consideration of Bill 53.

**The Chair:** Is there any discussion on that?

**Ms Martel:** Recorded vote.

#### Ayes

Hastings, Miller, Munro, Stewart.

#### Nays

Bountrogianni, Martel.

**The Chair:** The motion is carried.

We'll now go in camera to deal with the Innovation Trust report. We'll take about five minutes for the room to clear.

*The committee continued in closed session from 1017 to 1127.*

### PUBLIC SECTOR EMPLOYEES' SEVERANCE PAY

#### DISCLOSURE ACT, 2002

#### LOI DE 2002

### SUR LA DIVULGATION DES INDEMNITÉS DE CESSATION D'EMPLOI DES EMPLOYÉS DU SECTEUR PUBLIC

Consideration of Bill 53, An Act requiring the disclosure of payments to former public sector employees arising from the termination of their employment / Projet de loi 53, Loi exigeant la divulgation des versements effectués aux anciens employés du secteur public par suite de la cessation de leur emploi.

**The Chair:** I'd like to call the committee to order again for clause-by-clause consideration of Bill 53, An Act requiring the disclosure of payments to former public sector employees arising from the termination of their employment.

It's Mrs Bountrogianni's bill, so I will call upon her to make an opening statement and then we'll go through clause-by-clause.

**Mrs Bountrogianni:** I'll make a very brief opening statement, because I really wish to have the amendments discussed and passed today.

This is basically an extension of the government's own sunshine law that for anyone receiving a severance of \$100,000 or more, that information should be made public. That's my only opening statement.

Thank you for the opportunity to bring this to this committee.

**The Chair:** Any other comments by anyone?

**Mr Stewart:** I'd like to speak to the bill. First of all, let me say that I think the intent of the bill is good and the general direction of the bill is very good. But we're dealing with something here that is totally different from dealing with the release of somebody's wages, the reason being that there are so many extenuating circumstances to what people get on severance pay.

I've employed people for 40 years and I have great difficulty, whether it be in the private sector or the public sector, when other employees know everything about everybody else. I truly believe that this type of thing—not on the dollars and cents of salary—tends to infringe upon certain people's rights.

I may have made \$70,000 or \$80,000 a year for somebody and I may have worked for him for 30 years. My severance package may be for merit or it could be for service; it could be for a lot of things. If I happen to be given something over \$100,000—let's say it's \$101,000 and I was here 30 years or whatever it might be—somebody sitting beside me, who may not have done the job that I did, may end up saying, "God, I want to get a severance exactly like that." I think you're opening up a real—for lack of a better word—can of worms, that we are indeed interfering with things that should be left somewhat in private, as such.

The other concern I have is, what will happen for people who may want to become employed in the public sector? I guess the public sector gets criticized from time to time because of work habits and a number of other things they do. I'm beginning to think if you put enough of these types of restrictions and regulations in, how are you going to attract people? How are you going to attract good people?

Please let me say that the intent of your bill is fine. I think there has to be some major flexibility. Because if I go and hire somebody today and I say, "Oh, by the way, whether you're terminated in 10 years or 15 years for inefficiency"—well, we wouldn't go that long with inefficiency, but say it is, or because of some extenuating circumstance within the firm or within the ministry, or there could be untold things there. I'm going to say to him, "Well, when you are let go or when you're terminated, I'm going to tell the whole world about what I'm giving you." I don't think that's right. I believe that you have to look at individual people. I realize that in certain areas what should be given is kind of laid down, but if we are going to attract good people to the public sector, as we are doing—and I know people don't like it when I suggest that government should be run like a business. I went through this the other night in the House and I got a little criticism for it. But for the life of me, when I ask them why not, I never, ever hear anybody

telling me why it shouldn't be. But again, there are those who don't. Of course, everybody says, "It's profit." Well, what do you think revenue is? Revenue happens to be the dollars that allow us to give the priority services that we need.

My concern, again, with this particular bill is the fact that I think there is a degree of infringing on people's rights and privacies. I think it gives an indication that we really don't want to attract the best people. I don't think everybody should know everything about everybody else. I believe that if there are terminations, for whatever reason, there should be some degree of privacy involved with that, and for other reasons they may be trying to get rid of somebody because of some extenuating circumstances that are not maybe appropriate, or whatever.

I think there has to be certainly a degree of flexibility in it. Needless to say, I assume this has been run by the lawyers. Of course it's very debatable with lawyers—sorry, Mr Chair—that some interpret one thing one way and another one interprets another way—

**The Chair:** Just like politicians.

**Mr Stewart:** Just like politicians, which surprises me.

Really, I guess the other one is if it has been run by the privacy commissioner. What was his position? I guess I would ask that before I continue with any additional comments on it.

But there again, don't forget, we're dealing with the public sector here. We're dealing with people whose rights we could be infringing on, I believe. We're dealing with things like merit and ability and duration of time.

If I've been here, let's say, 20 years, and you publish that I got a severance of \$101,000, the automatic thing the public's going to say is, "Look at that guy Stewart. Look at the money this guy got. He got \$100,000 when he left the government." They didn't look at how long I worked here. They didn't look at what my position was. They didn't look at anything other than the fact that Stewart got \$100,000 and he's a civil servant who I don't think is worth that many dollars.

We hear it every day as politicians, and I think we're going to hear it every day on this. Public disclosure of wages I have no problems with, but I do on this because their wages are set at a certain level. It's between \$30,000 and \$40,000. I could have an employee who is maybe making \$25,000, \$30,000 or \$40,000 and, because of extenuating circumstances, give them \$100,000. The guy sitting beside him maybe didn't do as well.

I just have a little problem. So I'll shut up for a minute, but I'd like to go back because I would like to hear what the privacy commissioner said.

**Mrs Bountrogianni:** First of all, it did go through the lawyer. Second of all, the office of the Information and Privacy Commissioner was here and made a presentation during the hearings and found this to be a balanced bill and, in fact, the amendments that I will be proposing came mostly from the privacy commissioner. He felt that these amendments would make it a better bill. There are precedents in other provinces.

With respect to your comments on privacy, this is public money. The public has a right to know how much money they are paying people for their salaries and their severances. As you may know, this came out of a lot of golden handshakes from people—unlike yourself—who left on their own accord and still received millions. In my city alone, hospital officials—\$2.5 million—who were not accountable, who were not effective, who were not efficient—it was just an easy way to get rid of them.

My first bill on this, with all due respect, was a better bill and was more comprehensive and would have given more accountability. But that was touted as infringing on privacy because it was very detailed. This is a very simple bill. It's basically saying that if your severance package is over \$100,000, the public has a right to know that; that's all. In fact, sooner or later, the public does find out. It may take years, it may take a lot of FOIing, it may take a lot of very good reporters digging and digging. That publicity is often more negative than the one-day story of how this person is going to receive a \$200,000 severance. Quite often, not knowing, and the rumours around the not knowing, are much more negative toward that public sector executive.

But really, it's about the right to know. There are precedents across the country and in other provinces. The privacy commissioner was very supportive and, in fact, wanted to strengthen it by these amendments. It was unanimously passed. The minister responsible for Management Board was very supportive of this bill. At least, that's what he said, and I think he's an honourable minister. So I find it very curious that you're trying to delay it or block it with arguments that have been discussed and resolved in this committee and in the Legislature.

**The Chair:** Any further comments?

**Mr Stewart:** No, I'm not trying to delay this thing at all. What I'm trying to do is suggest to you that there's got to be some flexibility in it. Maybe the fact is that \$100,000 is too low. There are all kinds of people who make \$20,000, \$30,000 or \$40,000 who might get a severance of \$100,000. This—

**Mrs Bountrogianni:** What's wrong with the public knowing that? They know what we make.

**Mr Stewart:** That's fine.

**Mrs Bountrogianni:** And we get the criticism and then we move on.

**Mr Stewart:** They elected us.

**Mrs Bountrogianni:** They are paying for these people, too.

**Mr Stewart:** I know, but there are employees who I believe should have some privacy and I don't think, in this particular case, that they have.

Again, I go back to what I said to you. I have absolutely no problems with wage—none whatsoever. With my wages or the public sector wages I have no problems. But when it comes to severances, I have difficulty because there are too many extenuating circumstances. You can talk about those, whether it be hospital people or whatever. They may get \$200,000 or \$300,000 and you'll



save \$1 million over the next two years because they're gone.

You know—sorry, I shouldn't say what I was going to say. I know that because I've seen it in business and I've seen it in other areas, because some of the people get to that point where they are the top executives with major jobs, they feel they are irreplaceable and they don't do the job very well, and we're looking at a few of those situations right now. I believe it's certainly very low. I think you're infringing on the rights of some of the lesser-paid people in the various ministries and I have difficulty with that. Whether you class it as public sector money or not, it's still the fact that it's there and could be. I don't know if my colleagues want to say anything or not.

1140

**The Chair:** Ms Martel's next.

**Ms Martel:** Just very briefly, we had Tom Mitchinson before us and he was very clear. He said there was nothing flawed in the bill. He said it did provide a balance between accountability and privacy. He also said that we have a clear precedent already that we can point to and that's the government's own sunshine law, where the salaries of \$100,000 are disclosed. So I'm finding it really hard to balance that it would be OK to disclose \$100,000 worth of salary, which we do through your government's sunshine law, but we wouldn't do that if someone got a severance package of over \$100,000.

We are talking about public money; we're not talking about private sector employees. We are talking about executives who are outside of a bargaining unit who get a golden handshake. It seems to me that the public does have a right to know those issues when someone leaves their employment. I don't think for a moment that it's going to stop people from applying. What we saw in terms of the public hearings, that people were doing that from one post to the next, which was even worse—just moving from one job, getting a severance, and going on doing it again somewhere else, and a lot of expenditure of public money. So I don't know how the government members in particular can say it's OK to have disclosure under the sunshine law for salaries but it's not OK under the severance package. That's a contradiction I can't understand.

**The Chair:** Any further comments before we go through clause-by-clause?

**Mrs Munro:** I would like to say a few words about Bill 53 and specifically about advice that government members have received on a piece of legislation that we all agree is well-intentioned, and we certainly understand the motive of the member in bringing it forward. As all of us know, this is the bill that requires that if a former public sector employee not subject to a collective agreement receives \$100,000 or more as severance pay, then the former employer is required to make public the amount of severance paid.

Obviously, as we all recognize, there is some similarity between this bill and the Public Sector Salary Disclosure Act, which certainly was consistent with the

position that, as Ms Martel has referenced, was significant to this government and its commitment to providing the public with information on the most senior people in the public sector. It was, as has been referenced, referred to as the sunshine law because its intent was, of course, to do exactly that: to provide information, in a public disclosure way, on those kinds of salaries that were being paid.

But under this legislation, public sector organizations and government ministries, as you know, by March 31 of each year must disclose the names, the positions and the compensation paid to those employees where it is in excess of \$100,000. But by setting a threshold of \$100,000 in salary for public disclosure, the legislation parallels similar requirements in the private sector and, quite frankly, the whole idea was to provide the public with a better picture of how compensation levels for senior people in the public sector compare to those in the private sector. Obviously, the intent of that legislation was in fact to return the notion of public into public sector salaries.

I certainly understand that greater accountability in public sector salary disclosures is also in line with the recommendations made, as was referenced here a moment ago, by Ontario's Information and Privacy Commissioner. Organizations subject to the legislation, as we know, include municipalities, school boards, hospitals, colleges and universities, all ministries of the Ontario government, crown corporations and agencies of the LCBO and the Workplace Safety and Insurance Board.

**Ms Martel:** Why doesn't she just table it?

**Mrs Bountrogianni:** On a point of order, Mr Chair: Is this a lecture?

**The Chair:** Ms Munro has the floor. According to our rules, she has up to 20 minutes—

**Mrs Bountrogianni:** That's not fair. If you don't want to pass this now, that's fine. But we're wasting everyone's time here with a little lecture about your sunshine law. We know the sunshine law. Let's just forget this stuff.

**The Chair:** Excuse me. Mrs Munro has the floor.

**Ms Martel:** Why doesn't she table what she's reading?

**Mrs Munro:** I think the important point for us to understand is the fact that we recognize the intent of this is to follow in that legislative logic, if you like. But we think that Bill 53 needs to reflect more aspects of the sunshine act to be a truly workable piece of legislation. So I would just like to give—

**Mrs Bountrogianni:** Did you bring any amendments?

**The Chair:** Mrs Bountrogianni, she has the floor.

Go ahead.

**Mrs Munro:** If the members of the committee will bear with me, I'll break down some of the various aspects of the bill to give us an understanding of the potential the bill has.

The first problem was referenced a moment ago, and that is on the question of the definition of severance pay. Upon reflection, I think you would see that it is a very

narrow definition. It refers only to the amounts received by a person in connection with a retirement compensation arrangement, as defined in the Income Tax Act. A retirement compensation arrangement is a special arrangement under the Income Tax Act to provide funds to a custodian for future compensation for employees who retire or lose their employment. This type of arrangement does not cover what is commonly known as severance pay. So I believe there are issues with regard to the definition that need to be addressed.

As many members will know, severance pay can take many forms. It can be some form of cash payout. It could include a retirement compensation arrangement, as the definition states. It may include some more creative settlements, such as an ability to cash in unused sick time or holiday time. It could include almost anything.

The members need to remember that any law that deals either directly or indirectly with the Canadian Income Tax Act, as this bill does, or at least for defining terms, is dealing with a document that contains almost 3,000 pages. A severance sunshine law would certainly have to comply with the definitions and regulations that govern this country's income tax.

Having a proper definition is particularly important in a bill like this, because once a sunshine severance law is in place, there—

**Ms Martel:** Chair, on a point of order: I'm sorry. If she were making some arguments, I wouldn't whine. She's reading from a prepared text. I'd ask the member—look, why don't you just table it with us, and we'll read it at our leisure? I think it is a real abuse of the committee's time that she is reading a text prepared by someone—who knows?—and taking up the committee's time when we can't deal with the amendments. Table it, and let's get on with the amendments. This is ridiculous.

**The Chair:** That's not a point of order. She has the floor for up to 20 minutes, the way I understand it, the way our rules operate. Any member can use the time any way that he or she wishes. So continue on.

**Mrs Munro:** Having a proper definition is particularly important in a bill like this, because once a severance sunshine law is in place, there may be, but I hope not, organizations that would look extremely hard to find loopholes to exploit. That is something I'm sure the honourable member didn't intend.

I understand that the member originally introduced a similar bill following a severance scandal at a hospital in her constituency. It would be a shame to put a law in place that a hospital or any other organization in the broader public sector could simply do an end run around.

To move on, if Bill 53 is to go forward, a number of protections that are already part of the Public Sector Salary Disclosure Act should be added to make the bill workable. For example, it is uncertain whether Bill 53 would override an agreement regarding severance pay that attempts to limit the disclosure of such information. Bill 53 should prevail or not contravene any agreement that attempts to do otherwise.

1150

The bill also lacks flexibility for the Lieutenant Governor in Council to make regulations dealing with certain issues. These include: excluding certain persons as employers; how information should be disclosed; whether specific payments are to be included or excluded from severance pay; and changing the \$100,000 threshold for disclosing severance pay.

Let me expand for a moment on the last example.

*Interjection.*

**The Chair:** Just a minute. According to standing order 107, in committee a member can have the floor for 20 minutes.

**Mr Richard Patten (Ottawa Centre):** There's an opportunity for all sides to propose amendments. None was proposed and now we're getting a lecture on the background of how other people may do this. It's an embarrassment.

**The Chair:** Mr Patten, Mrs Munro has the floor and she will continue. She has six more minutes left. Go ahead.

**Mrs Munro:** Let me just continue on the question of the last example. If the bill receives royal assent and becomes law, five years or even 10 years later the threshold is still set at \$100,000, because the government doesn't have the ability to amend the legislation. Obviously, I see that as a problem. But as I said, it is only one of the many with this particular piece of legislation.

The spirit of the Public Sector Salary Disclosure Act is one of openness and transparent accountability, and those are certainly key to this. In the recent budget introduced by the Minister of Finance, there was the announcement that the government would increase the accountability, openness and transparency of its own books. On page 53 of the budget papers, the heading reads "Improving Accounting Practices."

"Implementing better accounting and reporting practices means providing more accurate and relevant information to decision-makers and the public. The government will continue to pursue improvements to its accounting practices to foster more efficient, effective and business-like management of public resources, such as the treatment of services that are provided on a cost-recovery basis."

In addition, the government will proceed with accounting improvements which both the Ontario finance review committee and the Provincial Auditor have called for.

As I'm sure the committee members realize, these changes will help them better understand the highly technical working of the government's finances.

To continue, the section of this bill focuses on the termination of employment of an employee who is not subject to a collective agreement. The section seems, at least to me, to go against the spirit of openness and transparent accountability. I feel that to maintain the spirit of this bill, it should be applied equally and fairly to all employees whose organizations are required to comply.



It is also unclear as to how the \$100,000 or more figure for disclosing an employee's severance was calculated. Under the Public Sector Salary Disclosure Act, the figure was derived from the Securities Act, and as I noted earlier, the legislation parallels similar requirements in the private sector. It may seem, on first look, that the honourable member simply copied the figure into this bill. However, that does raise an issue that I would like to discuss.

There are many honest, hard-working broader public sector employees who, upon termination, will receive severance packages in excess of \$100,000. Really, in today's dollars and for a severance package, that is not a lot of money; perhaps it is as a salary, but not for severance. If a long-serving government employee had a buy-out or severance package that paid two years' salary based on years of employment and they made \$50,000 or \$60,000 a year, well, I think you can see where I'm going with this. It may seem like they are receiving a pretty good deal, but in reality they are receiving their due. And for that, they have their name in all the newspapers.

I believe if this bill is to go forward, careful study must be given to the threshold figure. We wouldn't want to set it either too low or too high.

**The Chair:** Can you conclude? You've got one minute left.

**Mrs Munro:** OK.

In previous discussions earlier this year, a number of high-priced severances paid out to public sector managers across the province were identified. Mrs Bountrogianni noted at the time that as taxpayers and citizens, the public didn't have the right to pick up the phone and ask how much an executive received in severance pay. The argument is that the public sector boards would be more careful when drawing up employment contracts for their executives if the law required severance deals over \$100,000 to be made public. This forces public-funded organizations to be more accountable internally by providing the necessary information to its board of governors in order to make sound decisions.

**The Chair:** I think that's the time right there. Mrs Bountrogianni was next.

**Mrs Bountrogianni:** I guess I shouldn't be surprised, but being a relatively new member, I am surprised, because I really did believe that this bill would have a more favourable response. It was passed unanimously. The privacy commissioner is supportive of it. It has gone through the lawyers. We had public hearings in March. If this government was really serious about accountability, they would have proposed amendments. There were inaccuracies in the member opposite's—this is not based on a few golden handshakes in Hamilton. This has been going on across the province for years. Basically, the public needs to know where their money is going. If someone like the privacy commissioner says it's not an

infringement of privacy, I don't see how we can say the opposite.

On a larger scale, I think this is why people make fun of politicians. This is a circus. If you really didn't like the bill, you didn't have to pass it so that you could say you liked it at some level. You could have just saved us some time. You could have saved yourselves some time. You could have saved your staff some time, my staff some time. You could have saved the honourable Chair some time, as well as of course the Provincial Auditor and his staff. This is why good people don't go into politics, because it's games. It's ridiculous.

This is a very simple bill. It has gone through all of the appropriate processes to ensure that privacy is not infringed upon. My original bill was more comprehensive, and I understand the difficulties around that. It was modelled on a BC bill. It did have term limits. It did have some bureaucratic measures that were seen as too much by this government, and that's fine. That's why I came back with this very simple bill, admittedly a very simple bill, just to begin to bring some accountability.

In other words, if the boards knew that the public will know the severance packages, they will be more careful about who they are hiring. That's basically it. If someone is coming from three other hospitals and they've been fired and have received golden handshakes, maybe they shouldn't hire that person for the fourth hospital. That was the intent of this bill: to make the boards a little more accountable, a little more careful about who they are hiring.

The negative publicity surrounding the protection of these golden handshakes has aroused more negative media than the one- or two-day reaction to a severance in the newspaper or elsewhere. This bill has nothing to do with being in the newspaper; it's just basically me as a taxpayer picking up the phone and saying, "How much is this hospital CEO's severance package when he goes?" That's all. That's all that is.

To think that we can't attract good people in the public sector with hundreds of thousands of dollars of salaries is ridiculous. Of course we can. We want people in the public sector who are there to serve the public good, not there to make millions of dollars. Good salaries, good severance packages and open accountability, that's what this bill is about.

The bigger issue for me is, we have wasted so much time. If you are serious, if you have second thoughts, please bring your amendments back in the fall and we will entertain them, as mine were entertained—were not entertained today, but were at least on paper.

**The Chair:** OK. With that, it's 12 o'clock. We're adjourned until the first Thursday after the House comes back. Thank you for your attendance.

*The committee adjourned at 1200.*











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### STANDING COMMITTEE ON PUBLIC ACCOUNTS

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#### **Vice-Chair / Vice-Président**

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Mr Bruce Crozier (Essex L)

Mr John Gerretsen (Kingston and the Islands / Kingston et les îles L)

Mr John Hastings (Etobicoke North / -Nord PC)

Ms Shelley Martel (Nickel Belt ND)

Mr Bart Maves (Niagara Falls PC)

Mrs Julia Munro (York North / -Nord PC)

Mr Richard Patten (Ottawa Centre / -Centre L)

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Mr Norm Miller (Parry Sound-Muskoka PC)

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Elaine Campbell, research officer,  
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Mr Nick Horn, legislative counsel



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Third Session, 37<sup>th</sup> Parliament

## Assemblée législative de l'Ontario

Troisième session, 37<sup>e</sup> législature

# Official Report of Debates (Hansard)

Thursday 26 September 2002

# Journal des débats (Hansard)

Jeudi 26 septembre 2002

**Standing committee on  
public accounts**

Public Sector Employees'  
Severance Pay  
Disclosure Act, 2002

**Comité permanent des  
comptes publics**

Loi de 2002  
sur la divulgation des indemnités  
de cessation d'emploi  
des employés du secteur public

Chair: John Gerretsen  
Clerk: Tonia Grannum

Président : John Gerretsen  
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## LEGISLATIVE ASSEMBLY OF ONTARIO

## ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON  
PUBLIC ACCOUNTSCOMITÉ PERMANENT DES  
COMPTES PUBLICS

Thursday 26 September 2002

Jeudi 26 septembre 2002

*The committee met at 1007 in committee room 1.*

## SUBCOMMITTEE REPORT

**The Chair (Mr John Gerretsen):** I'd like to call the committee to order and, first of all, remind everyone that we have a delegation from the public accounts committee of Malaysia here today. They will be joining us shortly, and hopefully most of you will be able to join us for lunch as well at 12 o'clock.

The first item of business is the subcommittee report that has to be approved.

**Mr Richard Patten (Ottawa Centre):** I'd like to report on the subcommittee on committee business.

Your subcommittee on committee business met on Tuesday, September 24, 2002, and recommends the following:

(1) That the schedule for the committee's September 26, 2002, meeting be as follows: continuation of clause-by-clause consideration of Bill 53, Public Sector Employees' Severance Pay Disclosure Act, 2001, under the name of Mrs Bountrogianni; consideration of final draft, chapter 2, Ontario Innovation Trust; consideration of draft 2, section 3.11, road user safety program.

(2) That report writing on the following sections will be scheduled for upcoming committee meetings, dates to be determined: 3.01, food industry program, draft 1; 3.03, integrated justice project, draft 1; 3.05, violence against women program, draft 1; 3.07 community reinvestment fund, draft 1.

(3) That amendments to Bill 5, Audit Amendment Act, 2002, under the name of Mr Gerretsen, be submitted to the clerk of the committee by 5 pm on Thursday, October 31, 2002, and that clause-by-clause consideration of the bill be scheduled before the committee on Thursday, November 7, 2002.

**The Chair:** Any comments on that? All those in favour of the subcommittee report? Opposed? Carried.

PUBLIC SECTOR EMPLOYEES'  
SEVERANCE PAY

## DISCLOSURE ACT, 2002

## LOI DE 2002

SUR LA DIVULGATION DES INDEMNITÉS  
DE CESSATION D'EMPLOI

## DES EMPLOYÉS DU SECTEUR PUBLIC

Consideration of Bill 53, An Act requiring the disclosure of payments to former public sector employees

arising from the termination of their employment / Projet de loi 53, Loi exigeant la divulgation des versements effectués aux anciens employés du secteur public par suite de la cessation de leur emploi.

**The Chair:** All right. Dealing with item number one, then, the continuation of the clause-by-clause consideration of Bill 53, the Public Sector Employees' Severance Pay Disclosure Act, Mrs Bountrogianni. We dealt with this on the last day before the summer recess but we did not actually deal with the clause-by-clause. Are there any further comments that you want to make before we commence with clause-by-clause?

**Mrs Marie Bountrogianni (Hamilton Mountain):** I do want to make one correction for the record and I can give this correction to the Hansard, the quote. An error was made in transcribing information from an article that appeared in the Windsor Star on April 1, 2000. The article in question read, "It cost taxpayers nearly \$250,000 for the salaries of two police chiefs—outgoing chief John Kousik, who received a buyout when he left the city in February 1999 and incoming chief Glenn Stannard, who earned \$120,936." The information that was subsequently provided to me inaccurately attributed the full amount to Mr Kousik's severance alone. I just want to put that on the record, and I can give this to Hansard.

1010

**The Chair:** Now, are you correcting your own record? Because that's the only record that you can correct.

**Mrs Bountrogianni:** I'm correcting my own record, yes.

**The Chair:** OK. Thank you.

I'd also like to welcome at this time the delegation that has joined us from Sarawak, Malaysia, the public accounts committee from that state and country. Welcome to our hearings. We meet every Thursday morning at 10 o'clock, usually in open session, except when writing a report, when we meet in closed session. You're welcome to stay and observe the proceedings. We hope we'll be able to join you later on for lunch at 12 o'clock and perhaps for some further discussions as to how we operate so that maybe we can learn from you and you can learn from us as far as the different procedures are concerned. Welcome to our hearings.

Currently we're dealing with a private member's bill that is now before the committee for clause-by-clause



consideration. We will go through the bill, then, clause by clause, and deal with the amendments as they affect each particular section.

Are there any amendments to section 1?

**Mrs Bountrogianni:** Chair, may I ask for recorded votes on this?

**The Chair:** You are not a member of this committee, or you haven't been officially subbed into the committee, so any amendments will have to be moved by another committee member.

**Mr Bruce Crozier (Essex):** In that case, in section 1, I move that section 1 of the bill be amended by adding the following definition:

“‘termination’ of the employment of an employee includes the employee’s dismissal, resignation or retirement, and ‘terminated’ has a corresponding meaning.”

**The Chair:** Is there any discussion on the amendment?

**Mr Bart Maves (Niagara Falls):** Could I have an explanation on the amendment?

**The Chair:** OK. Mrs Bountrogianni?

**Mrs Bountrogianni:** This was on the recommendation of the assistant privacy commissioner. There is more than one reason for termination, and his recommendation was that it was ensured that it was all-encompassing.

**Mr Maves:** So typically, someone wouldn't really get a severance package for retirement.

**Mrs Bountrogianni:** Typically, no, but it has happened. Typically, you wouldn't get one if you quit, but that has happened.

**Mr Maves:** OK. So the idea is just to widen the envelope for transparency.

**Mrs Bountrogianni:** Yes, that's right.

**Mr Bob Wood (London West):** But there was no definition of “termination” before? We're just replacing it.

**Mrs Bountrogianni:** There was no definition, yes.

**The Chair:** OK. Any further discussion on the amendment?

All in favour of the amendment? Carried.

Shall section 1—

**Mr Maves:** Sorry, Chair. Mrs Bountrogianni, on the definition of “employer,” could you break that down for me kind of in layman's terms, who that all includes? Is that going to include hospital employees, school board employees, municipal sector employees?

**Mrs Bountrogianni:** Yes, it would, who are not covered by a collective agreement; so basically the executive officers.

**Mr Maves:** OK. Why would you exclude those covered by a collective agreement?

**Mrs Bountrogianni:** Because typically the terms of severance are included in the collective agreements, and they're there, they're written, they're recorded.

**Mr Maves:** OK. Are there ever any occasions when people covered by collective agreements get severance packages that the public might want to see?

**Mrs Bountrogianni:** The public does have a right to see those.

**Mr Maves:** By virtue of?

**Mrs Bountrogianni:** By the nature of—

**Mr Maves:** You have to specify it in a collective agreement?

**Mrs Bountrogianni:** Yes, it is specified. But typically, collective agreements have the severance packages that are by the guidelines of the law, which are—I can't remember exactly what they are now. Ms Martel might know more.

**Ms Shelley Martel (Nickel Belt):** Under employment standards.

**Mrs Bountrogianni:** Under the employment standards.

**Mr Wood:** The public would have no means of figuring out whether or not they thought the agreement had been properly interpreted if they don't know what the severance was. If you don't tell them the number, they have no means of figuring out whether or not the collective agreement, in their opinion, has been followed.

**Mrs Bountrogianni:** That's true, yes.

**Mr Wood:** All they can do is look at the collective agreement and hope that the severance follows the collective agreement.

**Mrs Bountrogianni:** That's true. My bill does not cover collective agreement severances at all. So I have not done the background information on collective agreements at all.

**The Chair:** Any further discussion? Shall section 1, as amended, carry? All those in favour? Carried.

Section 2: are there any amendments to section 2? No. Any discussion on section 2? Seeing none, shall section 2 carry? All in favour? Carried.

Section 3: any amendments to section 3?

**Mr Patten:** Under subsection 3(1), I move that subsection 3(1) of the bill be amended by striking out “receives severance pay of \$100,000 or more” and substituting “is entitled to severance pay of \$100,000 or more in total, whenever and by whatever means payable.”

**The Chair:** Any discussion?

**Mrs Bountrogianni:** This again was a recommendation out of the office of the privacy commissioner. At times severances are not just cash buyouts; they're also cottages, boats, so whatever that entails should be public. I didn't know any of this before.

**Mr Maves:** To legislative counsel, are the words “severance pay,” then, not still limiting?

**Mr Nick Horn:** In what way do you mean “limiting”?

**Mr Maves:** I don't know. “Receives severance pay of \$100,000 or more,” and substituting “severance pay of \$100,000 or more in total.”

**Mr Patten:** It means it can include in-kind evaluation—assessment, actually.

**The Chair:** Can we hear from leg counsel?

**Mr Horn:** My name is Nick Horn from legislative counsel. I'm not sure if I understand your question yet when you say, “Is it limiting?”

**Mr Maves:** I guess the part that expands the scope is the clause “whenever and by whatever means payable.”

**Mr Horn:** That's the intention of the amendment, because these packages are designed in different ways and may involve phased payments. It's so that the total amount to which the employee is entitled is covered, not just any actual payment that is made at the time of termination.

**Mr Patten:** This means that rather than simply limited to cash, sometimes an employee may have had a car, may have had a membership for a year or two at a golf club or something, and they may include that in a severance package saying, "OK, you can keep all that. Goodbye, good riddance." But it isn't purely \$100,000 in cash.

**Mr Maves:** Can I ask another question? Actually, it's on the section, so we'd better have the vote before I ask the question.

**The Chair:** Any further discussion on the amendment, then?

**Mr Wood:** Yes, I have a question. I gather that to the extent payment was made into an RRSP, it would not be captured by this section, as amended. Is that correct?

**Mr Horn:** It's a question of whether it has to be declared under income tax.

**Mr Wood:** It wouldn't have to if they took it out of the RRSP, would it?

**Mr Horn:** I don't know the answer to that question off the top of my head. But the way in which severance pay is defined is by reference to amounts that have been declared in federal income tax submissions.

**Mr Wood:** If it were paid into an RRSP, it wouldn't be declared on your federal income tax.

**Mr Horn:** That's a question of which I'm not sure of the answer. I have to be honest.

**Mr Wood:** I would have thought not, although I admit I'm not an expert in the area either.

**Mr Crozier:** A quick question, Mr Wood, and maybe you can help me. You said that if it were paid into an RRSP it wouldn't be on your income tax?

**Mr Wood:** That's my understanding.

**Mr Crozier:** Why?

**Mr Wood:** It's not.

**Mr Crozier:** Well, the money to put in the RRSP is. If it's a registered RRSP, you don't pay tax on the income from it. But certainly the money the government gives me has to be recorded on my income tax.

*Interjections.*

**Mr Crozier:** Well, it's not taxable. It's not taxable if it goes into an RRSP, but it's still income. It's just income that's not taxable.

**Mr Wood:** That's why I'm trying to—

**Mr Crozier:** So you do have to report it.

**Mr Wood:** I'm trying to understand whether or not that's captured. I gather counsel's not sure. Your opinion is that it is.

1020

**Mr Crozier:** I think it is.

**Mr Wood:** You think it's captured. OK, I just wondered.

**Mr Crozier:** Excuse me if my voice sounds gruff this morning. I have a cold.

**The Chair:** We thought you always sounded gruff.

**Mr Crozier:** I know. I'm a tough guy.

**The Chair:** Any further discussion on the amendment? All in favour of the amendment? Carried.

Are there any further amendments to section 3?

**Mr Crozier:** There is one further amendment to subsection 3(2).

I move that subsection 3(2) of the bill be amended by striking out the portion before clause (a) and substituting the following:

"(2) The record shall indicate the date on which the employment was terminated and shall show,".

**The Chair:** So it's changing the word "year" to "date." Any discussion on that amendment? Seeing none, all in favour of the amendment? Carried.

Any further amendments to section 3?

**Mr Patten:** I move that clause 3(2)(c) of the bill be struck out and the following substituted:

"(c) the total amount of severance pay to which the employee is entitled."

**The Chair:** Any discussion?

**Mrs Julia Munro (York North):** I'm just wondering if we could have an explanation of that shift.

**Mrs Bountrogianni:** This particular recommendation was made to me by legal counsel. So it wasn't something that came out of these meetings, I don't believe.

**Mr Horn:** If I could offer an explanation, the bill as it stands just refers to an amount of severance pay which is paid. This clause, the amount of severance paid by the employer to the employee in the year, is taken from a model which requires the disclosure of the salaries of public servants. In this context, there's a one-off payment; it's not just year by year. So we're saying the notice has to be of the total amount to which it's entitled. That's the intent of the bill. It's not the intent of the bill to cover yearly payments, as was the bill on which it was modelled. If you like, it's really just a change to bring it more into line with the intent of the bill.

**Mr Maves:** Doesn't that introduce an ambiguity, though, "total amount of severance pay to which the employee is entitled"? What we're after is what the employee actually receives.

**Mr Horn:** The fact is the severance package may not involve the payment of an amount upfront, but it may provide for entitlements. I'm just imagining a package where you had a series of those payments every three months, three months, three months. The point is, it gives you an entitlement to pay down the line. The record that we want here is a one-off record which covers the whole package and gives you a picture of the whole package. You can't cover that by just saying the amount—you may have only been paid a certain proportion of that amount up front, but you may be entitled to another portion further down the line. But you don't want to have to make a number of these records. You want the record to show the total amount of the package.

**The Chair:** Isn't the entitlement already dealt with in the earlier amendment of 3(1)?



**Mr Horn:** That does match the earlier amendment of 3(1). Those two go together.

**Mr Maves:** Why would you use that similar language, though?

**Mr Horn:** That is used by the amendment to 3(1). The earlier amendment to 3(1) talks about entitlement.

**Mr Maves:** "Entitled ... whenever and by whatever means payable." Doesn't 3(1) already cover that then, the amendment being made in 3(1)?

**Mr Horn:** No, because clause (c) just talks about the amount which is paid.

**Mr Maves:** "Amount of severance paid to which the employee is entitled." Couldn't I say he's entitled to \$100,000 but I'm giving him \$200,000?

**Mr Horn:** No. If you give him \$200,000, the package entitles him to \$200,000. You're entitled to an amount. You may be paid part of it up front and you may be paid some of it later. If you're entitled, you're entitled either to immediate payment or to later payment. Entitlement covers the whole package. It doesn't leave anything out. It doesn't leave out those upfront payments.

**The Chair:** It deals with the situation where—

**Mr Maves:** I understand. I just don't know if I like the wording. I understand what you're getting at. I just don't know that that wording is the right wording.

**Mr Patten:** Legal wording.

**Mr Horn:** Yes, at law, if you're entitled, you have a right to the payment. The law distinguishes between a right to an immediate payment, which might be a cheque that you get on severance, and a right to a later payment in six months. You can have a binding agreement to pay someone in six months. That gives you an entitlement to that later payment. You don't have an entitlement to be paid up front in that case, but it is nonetheless an entitlement. It's a right to a payment, whether it's immediate or later. That's what severance packages are about. They give you a right to a certain form of payment.

**Mr Maves:** I know. I'm looking at it from the other end, though. If I'm the employee and I don't want my total severance package known, I might agree that I'm only entitled to \$100,000 but that I made an agreement to get \$200,000.

**Mr Horn:** That second agreement is under the table. That's in bad faith, I would say. Your actual severance package includes the \$200,000 as well, no matter what may be in the black letters of that agreement. It's an oral agreement. It's actually covered by the bill, that under-the-table payment.

**Clerk of the Committee (Ms Tonia Grannum):** That's the purpose of the bill.

**The Chair:** Anything further by anyone on the amendment? No? All those in favour of the amendment? Opposed? Carried.

Shall section 3—

**Mr Maves:** I have a question on this section. In subsection 3(1), when we say "...the employer shall immediately make available for inspection by the public without charge a written record of the amount of the

severance pay," do we need to say how, in what form and where?

**Mr Horn:** This just gives flexibility to make it public in whatever way is appropriate. I imagine you could publish a notice on the Internet or in the Ontario Gazette. It just leaves some flexibility to the arrangement. It doesn't tie you in to a certain form of notification.

**Mr Maves:** Which, again, could defeat our purpose. Doesn't it allow them to make it public in a manner that they deem to have been made public and maybe it's a manner in which no one is going to find out about?

**Mr Horn:** I think you just take a fairly robust view of what is available to the public, what is reasonable for the public to have access to.

**Mr Patten:** Which is common sense.

**Mr Horn:** It's a common sense view and, as I understand it, this is modelled on the provisions for disclosure of public servants' annual salaries. I think the wording is the same; I'm not sure.

**The Chair:** Shall section 3, as amended, carry? All in favour? Opposed? Carried.

Any amendments to section 4? Any discussion? No.

Shall section 4 carry? All in favour? Opposed? Carried.

Any discussion on section 5?

**Mr Wood:** I support the bill and I'm going to support section 5. But I would observe that the wording of section 5 will lead the public to believe a little more is covered in this bill than actually is, and that comes back to my point earlier. There is a general presumption that people, whether they are covered by a collective agreement or they aren't, are going to get what they're entitled to under whatever contract they have, be it a collective agreement or a contract of employment. I think it's a very good idea to put the number out so that the contract can be scrutinized and we can see whether or not what should have happened has actually happened.

1030

I would invite members to consider in the future the application of this to collective agreements. How do we know, where a settlement has been made under a collective agreement, that the public's rights under the agreement have been protected? We don't know unless the number is put out. So I'd invite members at a future time to consider including collective agreements in this bill.

**The Chair:** Any further discussion? Shall section 5 carry? All in favour?

**Mr Maves:** Recorded vote.

Ayes

Crozier, Martel, Maves, McDonald, Munro, Patten, Wood.

**The Chair:** The preamble: there's no preamble. Any discussion on the long title?

**Mrs Bountrogiani:** I know I'm not a voting member of the committee and I can't make an amendment. Maybe someone else can if they agree. It was recommended

again by the privacy commissioner's office that the word "former" be struck out of the title. It has happened where people are still employed, say, in one hospital sector, are in the process of getting a golden handshake and are having an interview at another hospital and they're not really former employees; they're still employed, and they're negotiating entrance into a new public domain and termination from a former one. That was a recommendation by Mr Mitchinson. I can't make that amendment.

**Mr Patten:** Can I move that amendment so we can have discussion of this?

**The Chair:** Yes.

**Mr Patten:** I'd like to move that the title of the bill be modified by removing the word "former," so it would read "An Act requiring the disclosure of payments to public sector employees arising from the termination of their employment."

**Mr Wood:** "Present or former." Some may still be—

**Mr Horn:** I'll offer an explanation for the use the word "former" in the long title and in subsection 3(1). It's really a question of making sense of the language. If you've received a payment in respect of the termination of your employment, you are no longer a public sector employee. Therefore, you are a former public sector employee at that point. So at the point at which this bill applies to you, you are a former public sector employee by virtue of that application of the bill. You have ceased to be a public sector employee. That's the technical explanation for why the word "former" is used there. There's nothing more than that involved. If the word "former" was taken out, it would look a little odd, on the other side of it, to say that you've been given a termination payment and yet you are still a public sector employee. So if you take it out, I think there is a sense of oddness about it because you could even, at a stretch, say, "Does this only apply to public sector employees? One office is terminated and they take up another office." The answer is no, that you don't want to give that impression.

**Mr Wood:** In the case of constructive dismissal it's not unusual that you'll say, "OK, we accept that we've constructively dismissed you and we're going to give you another position, except we have to pay you off for the"—

**Mr Horn:** I would say in respect to the long title, because the long title is a description of the bill that has to convey its sense in one bite, I wouldn't object, on drafting grounds, if you like, to taking out the word "former."

**Mr Wood:** Would you object to "present or former"? I think there's good reason to have "former" in, I'm not objecting to that, but it is possible in the case of constructive dismissal, being the classic one surely, where you say, "OK, you're still on the payroll, except that we have to pay you off for demoting you."

**Mr Horn:** Yes, I see. So you actually are talking about someone who has a severance pay and has been re-engaged in another capacity.

**Mr Wood:** That may be simultaneous, that being part of the deal.

**Mr Horn:** Yes.

**Mr Wood:** I agree with you. I think you have good reason to want to leave "former" in. I agree with that. But why not say "present or former"? That covers off the objection.

**Mr Horn:** In which case, perhaps the insertion of the words "of their former employment" at the end of the long title would then cover it. So the long title would read, "An Act requiring the disclosure of payments to present or former public sector employees arising from the termination of their former employment." It's a little bit of a mouthful, I feel.

**Mr Wood:** I like that.

**Mr Horn:** But you like it.

**Mr Wood:** I admit it's a lawyer's argument. Nobody's going to care one way or the other, but I think it's more accurate.

**The Chair:** Yes, that makes sense.

**Mr Maves:** Do we then have to amend subsection 3(1), which says, "is terminated and the former employee receives severance pay"?

**Mr Horn:** No, I think in 3(1) the situation is a little different. We have a definition of "employee" and it's in their capacity as an employee within the definition in the bill that their employment is terminated. In fact, the argument does apply to the long title, but I would be more flexible about the long title. But in subsection 3(1), an employee—you look to their definition. It's someone who has a certain employment arrangement with Ontario and it's about the termination of that particular employment arrangement. So when you read "former employee," it's that they are a former employee in respect of that particular arrangement which has been terminated. Subsection 3(1) then doesn't have any reference to where their future employ is, what their current employment status is, and I think it would actually confuse the issue to make any sort of parallel change to 3(1), whereas for the long title I'm a little more flexible because the long title has a certain communication function.

**Mrs Munro:** I wondered if we would be better off if we moved "former" to the last line of the long title—"of their former employment."

*Interjection.*

**Mrs Munro:** No, you agreed on "present and former employees," and then putting "former" in a second time. It seems to me that if you just moved "former" to "employment" it would cover the situation where the individual may in fact be in the position of moving from one to the other, but the only part of this act, or the only part that we're concerned about, is the status of former employment. Because it doesn't matter what your current employee status is; it matters about the former employment.

**Mr Patten:** Can I respond to that?

**The Chair:** Yes.

**Mr Patten:** If I understand you correctly, Julia, you're saying that you don't even need "present" and "former"



if you just have "payments to public sector employees arising from the termination of their former employment." Will that cover it?

**The Chair:** Let's hear from legislative counsel.

**Mr Horn:** I have a suggestion which may finesse our way out of this problem if the long title were to read, "An Act requiring the disclosure of payments arising from the termination of public sector employment."

**Mr Wood:** I like that.

**The Chair:** Is that acceptable, that amendment, as far as the title is concerned?

**Mr Maves:** Say that again.

**Mr Horn:** I will say it again. "An Act requiring the disclosure of payments arising from the termination of public sector employment."

**Mrs Munro:** I think that doesn't cover the point I made a moment ago, the fact that that will only be if they're actually leaving the public sector. I think the intent of the original comment from Ms Bountrogianni was in fact the problem where someone may be being terminated from one position and going to another. So I don't think that particular suggestion—

**Mr Horn:** Well, if it said, "termination of an office of public sector employment."

**Mrs Munro:** I guess my thought would be that if you say what I suggested by moving "former" to "their former employment," that's sort of unequivocal, that if they're moving on that's outside the purview of this bill, and if they're not moving on, then we've captured what we want to do through the intent of the bill.

1040

**Mr Maves:** I concur in Mrs Munro's amendment. If I have two employments, A and B, and I leave A and move to B, then A was my former employment, so I should be covered by it, even if I get re-employed in B.

**The Chair:** What's your suggested wording, then?

**Mr Maves:** Leave it as it is, but move "former" to before the word "employment." Then you're covered.

**Mr Horn:** I'm a little uncomfortable with it, because there's confusion about the current employment status. This bill does not deal with the current employment status of the particular employee.

Could I just make another suggestion: "An Act requiring the disclosure of severance payments to public sector employees." No matter which way you look at it, it's a severance payment, even if you go on to work in the public sector. So we could say, "An Act requiring the disclosure of severance payments to public sector employees."

**The Chair:** Could I have any comments on that suggestion?

**Mr Wood:** I liked your earlier one. Let's get out of whom it's to. What this act covers are payments arising from the termination of employment. I understand what Mrs Munro is saying, but I think your suggestion a couple of minutes ago got us out of all these problems, and the public would get that. We're talking about payments being made where employment is terminated. Why don't we get out of the issue of whether they're still

employees or not? In most cases, they won't be, but in some cases, they will be.

**The Chair:** We've had so many different ideas thrown about. What is the suggestion, then? Could somebody—

**Mr Maves:** I don't know how the last suggestion—"An Act requiring the disclosure of severance payments to public sector employees"—doesn't cover everything. It's irrelevant whether you're former or whether you're terminated; if it's a severance payment, this act covers it.

**Mr Horn:** I think both of them cover it, and I'd have to leave it to the committee members to decide.

**Mr Maves:** "An Act requiring the disclosure of severance payments to public sector employees." No matter what, when you get—

**Mrs Bountrogianni:** A question for the counsel: when you say both cover it, which "both" are you talking about?

**Mr Horn:** I think both of the suggestions I have just made cover it, perhaps more elegantly even than the current long title, if I may say so. I can read them out, if members want to hear them again.

**The Chair:** Could we have the wording one more time, unless there are any other suggestions? What is the final wording?

**Mr Horn:** There are two alternatives being considered at the moment, as I understand it, from the government side.

**The Chair:** OK. Let's hear them both.

Who would like to move an amendment to the long title?

**Mrs Munro:** We have one on the floor.

**The Chair:** Would you like to withdraw your amendment at this time? You wanted to amend it by just including the word "former" in front of "employment."

**Mr Patten:** Yes, deleting the word "former."

**The Chair:** Are you prepared to withdraw that at this time?

**Mr Patten:** Sure, why not?

**The Chair:** OK. So now can we have an amendment put forward?

**Mrs Munro:** Could we hear—

**The Chair:** Yes, could we hear the two suggestions?

**Mr Horn:** Mrs Munro, your suggestion was: "An Act requiring the disclosure of severance payments to public sector employees."

The other suggestion, I think by Mr Wood, was: "An Act requiring the disclosure of payments arising from the termination of public sector employment."

**The Chair:** Is there anyone here who would like to move either amendment?

**Mr Wood:** I like mine better than the other one, but I'll take either. So if there's a strong view one way or the other, I'll support both.

**Mr Maves:** Could you read the second one again?

**Mr Horn:** "An Act requiring the disclosure of payments arising from the termination of public sector employment."

**Mr Wood:** I'll move that one to get something on the floor.

**The Chair:** OK. That's been moved by Mr Wood. Is there any discussion on that?

**Mr Maves:** That amendment doesn't do what we were trying to do, because the public sector employment may not be totally terminated.

**Mr Wood:** No, but that employment was terminated. In the employment we're talking about, there is a termination of employment, otherwise there's no severance pay. In the case of constructive dismissal, if I was the deputy minister and I become the director—

**Mr Maves:** Then that would mean that the current title is fine.

**Mr Wood:** No, because they may be current employees. What's wrong with the current title is that it's "present or former public sector employees." In the case of a constructive dismissal, when the deputy minister becomes the director, he or she gets paid off and takes a new job. It may be part of the deal that they never go off the payroll. They may say, "Wait a minute, I'm not signing that unless you guarantee I have employment as the director."

**Mr Maves:** But the other one is, "An Act requiring the disclosure of severance payments to public sector employees." That means your employment status doesn't matter. If you've got severance, that covers everything.

**Mr Wood:** I'll take either. I just put one on the floor.

**The Chair:** We have one on the floor right now.

**Mrs Bountrogianni:** The motivation of the privacy commissioner, and I agree with it, is—for example, in my city, with the amalgamation the city manager got a new job, basically the same job but a new city name, and both the former severance package and the next one when he was actually asked to leave were both private. If you have "former" in there, we would not have been able to access his former severance, because he's still a city employee. Do you see what I'm saying?

**Mr Wood:** That's a common thing. We used to call it constructive dismissal. They will not sign the settlement unless you guarantee that employment continues.

**Mrs Bountrogianni:** That's right.

**Mr Wood:** It's got to be simultaneous, otherwise the employee will not sign.

**Mrs Bountrogianni:** I think both titles capture that.

**Mr Horn:** That's my view. It's a question of emphasis, if I might put it that way.

**Mrs Bountrogianni:** I'm fine with either one.

**The Chair:** We have an amendment currently on the floor. If there is no further discussion, then I will ask for a vote on that amendment.

**Mr Maves:** Can I have the amendment again? The one that's on the floor.

**Clerk of the Committee:** Mr Wood has moved that the title should be amended to read, "An Act requiring the disclosure of payments arising from the termination of public sector employment."

**Mr Maves:** I don't think that does what we've been trying to do, because my public sector employment may not be totally terminated.

**Mr Wood:** But the payment arises from it. This is a legal argument, I agree. The payment arises from the termination of employment. If there is no termination of employment, there's no payment. It's because I'm no longer the deputy minister; the termination of that employment is why I'm getting paid.

**The Chair:** Are you aspiring to higher office, Mr Wood?

**Mr Wood:** The Senate, in fact. You don't have to worry about termination.

**The Chair:** Are we ready to vote on this?

All those in favour of Mr Wood's amendment? Opposed? Carried.

Shall Bill 53, as amended, carry?

**Mr Maves:** Recorded vote.

#### Ayes

Crozier, Martel, Maves, McDonald, Munro, Patten, Wood.

**The Chair:** Carried.

Shall I report the bill, as amended, to the House? Agreed? Agreed.

Thank you very much. That deals with that issue.

For the members of the Sarawak delegation that is here, what we have just dealt with is a private member's bill that was referred to the committee. Most of the committee's work, of course, deals with the report from the Provincial Auditor and the report writing that we do as a result of the investigation the committee does as well.

Over the years, there haven't been that many private members' bills brought before the committee, but this was one of those bills. As you can see, the opposition and the government worked extremely well together in order to see that the bill was passed. We'd like to thank everybody for doing that.

We are now moving into closed session to deal with the final draft of chapter 2 of the Ontario Innovation Trust.

*The committee continued in closed session at 1050.*









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Mrs Marie Bountrogianni (Hamilton Mountain L)

#### **Clerk / Greffière**

Ms Tonia Grannum

#### **Staff / Personnel**

Mr Nick Horn, legislative counsel



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Third Session, 37<sup>th</sup> Parliament

## Assemblée législative de l'Ontario

Troisième session, 37<sup>e</sup> législature

# Official Report of Debates (Hansard)

Thursday 28 November 2002

# Journal des débats (Hansard)

Jeudi 28 novembre 2002

## Standing committee on public accounts

Audit Amendment Act, 2002

## Comité permanent des comptes publics

Loi de 2002 modifiant la loi  
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## LEGISLATIVE ASSEMBLY OF ONTARIO

## ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON  
PUBLIC ACCOUNTSCOMITÉ PERMANENT DES  
COMPTES PUBLICS

Thursday 28 November 2002

Jeudi 28 novembre 2002

*The committee met at 1002 in committee room 1.*AUDIT AMENDMENT ACT, 2002  
LOI DE 2002 MODIFIANT LA LOI  
SUR LA VÉRIFICATION  
DES COMPTES PUBLICS

Consideration of Bill 5, An Act to amend the Audit Act to insure greater accountability of hospitals, universities and colleges, municipalities and other organizations which receive grants or other transfer payments from the government or agencies of the Crown / Projet de loi 5, Loi modifiant la Loi sur la vérification des comptes publics afin d'assurer une responsabilité accrue de la part des hôpitaux, des universités et collèges, des municipalités et d'autres organisations qui reçoivent des subventions ou d'autres paiements de transfert du gouvernement ou d'organismes de la Couronne.

**The Chair (Mr John Gerretsen):** I'd like to open the meeting to deal with clause-by-clause consideration of Bill 5, the Audit Amendment Act. Since I obviously will not be able to act as Chair for this, I would request—

**Mr Richard Patten (Ottawa Centre):** Do we have a report from the subcommittee?

**The Chair:** Can we deal with that after, please?

**Mr Patten:** Sure.

**The Chair:** Could I have a motion appointing an acting chair?

**Ms Caroline Di Cocco (Sarnia-Lambton):** I move we appoint Richard Patten as acting chair.

**The Chair:** Are there any further nominations? All in favour? Opposed? Carried.

**The Acting Chair (Mr Richard Patten):** As we get into Bill 5, there was a handout. Each member received one that looks like this, which replaces number 23 in the package you have on the bill. It's outlined 23 near the back of your package. Do you all have that?

**Mr AL McDonald (Nipissing):** Sorry. Which part, Chair?

**The Acting Chair:** This was handed out. Do you have a copy, John? It's motion 23 at the back. This replaces it when we get to it. It's a pretty big bill, very substantive.

**Mr John Gerretsen (Kingston and the Islands):** Could I make some opening comments, Mr Chair?

**The Acting Chair:** Yes, absolutely.

**Mr Gerretsen:** The comments deal with the amendments. The bill was unanimously approved and given

second reading in the House. I know that some of the amendments—I'll put this right upfront—strictly speaking may not be in proper form as far as the usual procedure is concerned, from information I've received from the clerk's office and from various other people as well. They can only be passed by unanimous consent. They deal basically with renaming the Provincial Auditor's office and naming it "Auditor General," which would be in line with other provincial auditors' offices throughout the country. I believe they're all named "Auditor General" now in the individual provinces except for Ontario.

These amendments, the way I understand it, are not, strictly speaking, proper to the extent that the subsections they deal with in the bill were not reopened by my amended bill. To speed the process along, if there isn't unanimous consent to change the name of the office from "Provincial Auditor" to "Auditor General," then I'm prepared to withdraw those. I would like to see them in because I think it would bring the bill more in line with what's happening in other provinces. On the other hand, I realize that unless there is unanimous consent, as far as the clerk's office is concerned, these amendments would not, strictly speaking, be in order.

I'm just putting that right upfront so that everybody knows what we're talking about. I would say probably about 18 of the 23 amendments I've proposed deal with items along that line.

**The Acting Chair:** Thank you. Actually, the very first motion deals with what you've identified. You're correct. I'm advised by the clerk that I should ask you to move that first subsection and then we can respond to it.

1010

**Mr Gerretsen:** I move that section 1 of the bill be amended by adding the following subsection:

"(0.1) The definition of 'assistant auditor' in section 1 of the Audit Act is repealed and the following substituted:

"'deputy auditor' means the Deputy Auditor General;"

**The Acting Chair:** I have to notify you that this is considered to be out of order unless there is unanimous consent to consider this.

**Mr Gerretsen:** I would request there be unanimous consent for this amendment.

**The Acting Chair:** Do we have unanimous consent?

**Mr McDonald:** Chair, maybe I could ask the Provincial Auditor for his thoughts.



**Mr Erik Peters:** "Auditor General" is the generic term. It is now used across the board in Canada with one other exception, and that is Saskatchewan. Saskatchewan and Ontario are the only jurisdictions where it is called "Provincial Auditor." The reason is that there is a direct linkage actually to the intent of the legislation that is before you, because up to now my office could not do proper value-for-money audits of the broader public sector, like of the sector we are talking about. So there is a logical linkage to the name change, from just auditing ministries to auditing the broader public sector. There is a logical linkage in changing the name of the office to Auditor General to indicate the broader scope, and that broader scope is also implied in many other jurisdictions. They have this audit right already, and possibly that's why the name Auditor General was chosen in that. So there's a logical linkage to the bill itself; although it may be technically out of order, there is a legislative linkage that can be clearly established.

It's certainly overall a motion we would support, because so frequently in our meetings I would say that easily up to half of the correspondence to my office from the public is addressed to the Auditor General of Ontario. It would simply institute or put into law what is a good part of law making, which is to put a practice that is out there into the legislation.

**Mr McDonald:** So just changing the term or your name gives you expanded power? Is that what you just said?

**Mr Peters:** Not expanded power, expanded domain. In other words, we can do financial audits of all these public sector entities right now, but the bill is intended to allow us to have access to all the information necessary to do value-for-money audits of broader public sector entities. Most of these, as you know, are close to 100% funded by the province. There's a declining percentage of funding going to the universities out of their overall revenue stream. A percentage, in some universities as low as 40%, is coming from the government. But in other organizations, such as hospitals and school boards, the funding comes pretty well 100% from the province.

It would really give the Legislative Assembly, through my office, the right of access and the right of knowing whether these organizations are actually prudently administering the funds they are receiving from the provincial government and for the purposes intended.

**Mr McDonald:** So this would bring more accountability?

**Mr Peters:** That's right. It would certainly improve overall accountability in the province, and the name change would support that.

**Ms Di Cocco:** Just on that whole notion of accountability, I remember, in one specific experience a few years ago, trying to get—and it's a case in point that would support unanimous consent for this. When we requested that the government at the time see if the Provincial Auditor could take a look at some questionable practices of one of the local school boards—it ended up coming through at an inquiry—we were told that the

Provincial Auditor couldn't do that, couldn't come and overview that. At that time I wished, as a citizen, that there was some mechanism that would allow him to at least look objectively at how some of those dollars were being spent at that time. It didn't happen because he didn't have the authority to do that.

**Mr John Hastings (Etobicoke North):** The OHA has presented a letter regarding the Audit Amendment Act, and it outlines several levels of accountability already, including audited financial statements to the board, even if they're by outside auditors, which are submitted to MOH. You have the hospital accreditation exercise. I see in their letter, on page 2, "up to 10,000 pieces of information."

What I'm not clear on is, if you had this amended act go out of this committee, regarding hospitals, would you say, first, that you wouldn't agree with the substance of their letter, in terms of the levels of accountability; and second, that your office needs to have the authority to go in and audit all the programs at a given hospital, and there's no duplication in either of those exercises? Finally, I've been on this committee for a number of years, and throughout those years you have always made the observation that you need more resources to do what you had already been assigned. So I assume that if this Audit Amendment Act went through, you would require more resources to undertake the broadened mandate of your office to audit these organizations that you already don't have any purview over, except maybe getting information from. Your comments, please?

**Mr Peters:** I understand all three questions. Certainly, the hospital association has objected to audit and transparency to the Legislative Assembly all along. The fact we have to look at is that none of the mechanisms described in that letter and in the previous presentations provide for accountability of hospitals to the Legislature. That mechanism would be established through my office.

Certainly, I acknowledge that there are a number of accountability steps that have been taken in the hospital sector. They would certainly be taken into account in dealing with the depth of the audit, and we would look at it. For example, the hospital report card is quite a valid initiative, although hospital people are telling me there are some concerns; for example, they are unable to assess the state of the art of the equipment, of the capital facilities, being used in a hospital, and I think the hospital association is aware of this. They are considering their report card; it's a work in progress. But we would take all accountability mechanisms into account when we do our audits.

In fact, in our audits of the hospital sector, which we have done at the ministry level only—for example, you mentioned accreditation; we have always been very active in asking the ministries to use the accreditation process as part of their assessment process of the way they fund hospitals. But I do not consider this in any way redundant, or the initiatives taken by the Ontario Hospital Association as making an audit by my office, as an office of the Legislature, redundant. It simply enhances the

accountability of the hospital sector to the Legislature itself, remembering that we're spending \$7 billion-plus a year on the hospitals. I think the Legislature is entitled to know whether they are achieving value for money. That speaks to the point about hospitals.

You also raised a point about resources. When we discussed this previously, in 1996, we made a statement that we would be able to deal with these kinds of audits with the resources we had then. I should remind you, though, that since 1996, the resources of my office have been cut. I'll also put the Board of Internal Economy on notice—I said, actually, a year ago—that over the next three years I would like to restore the funding of my office to the 1996 level. Actually, what I would like to do—I think we can make do with that level of funding, but I should point out to you that my office has been reduced in funding since 1990 from a level of 115 staff members to about 85 now. That is just not acceptable in the overall context, in any context, because we are the least funded office in Canada. I should point out to you that we are receiving about 14 cents per thousand dollars of government spending, which compares to the federal, which is the next-leanest office, at about—

**The Acting Chair:** I'm sorry, I'm going to have to intervene as Chair. This is really outside of this scope. It is interesting, and I think we've talked about it before, but if you could respond to the third question that he asked. Then Mr Gerretsen wants to say something.

1020

**Mr Peters:** Yes. That was a resource question. I want to respond to that. I just wanted to put on the record that, for example, we are funded at 14 cents per \$1,000, compared to the federal, which is the nearest, at about 35 cents per \$1,000. Alberta, for example, has been at about 74 cents per \$1,000 of government spending. So we are way at the bottom of the heap in spending. Even if we get the additional spending we have asked for over the next three years, we will still only be at 15 cents, or less than half the spending in relation to the spending of the federal government and of any other office in Canada. Just as a comparison, my staff level right now is close to 85, 87. Quebec, which is the nearest province in size, has a staff of 240.

**Mr Gerretsen:** I wonder if I could just address a couple of issues. The whole purpose of my bill, you may recall, was to give the auditor a greater ability to follow the money. So the name changes are to ensure that as a provincial auditor he doesn't audit only the province's books but that he also has the ability to audit the books, in effect, of the people who receive the transfer money.

The reason we didn't have public hearings is that basically this bill is very much like the bill that was introduced in 1996. There were extensive public hearings. I think it's fair to say that most of the transfer recipients didn't like the fact that there was greater accountability.

**Interjection:** Mr Maves's bill.

**Mr Gerretsen:** That's right. Mr Maves's bill, absolutely. I'll give him full credit for that; no question about it.

All the accountability mechanisms that are referred to in the Ontario Hospital Association deal with the hospitals being accountable to the government. It doesn't deal at all with the hospitals being accountable to the Provincial Auditor. That's the major difference. I suppose that from their viewpoint, and it's the same with the university associations etc, the fewer organizations they have to be accountable to, maybe the better it is. But that's the whole purpose of the bill, to deal with the ability to audit where the money goes.

**Mr Raminder Gill (Bramalea-Gore-Malton-Springdale):** I think it's a good idea. I think that close scrutiny is very important. I'm not sure what the mechanism should be. I'll cite the example of Mr Rosen going in and finding out that there is perhaps \$95 million which might have been wasted on things that were not essential. So in this case, we have to look at whether the health care delivery is where the money is being spent or whether it is somewhere else. So I'm all in favour of closer scrutiny. We'll have to work out the mechanism.

**Mr Hastings:** Since we're discussing this act and the thrust of it, John—

**The Acting Chair:** We actually have a motion that has been placed before us.

**Mr Hastings:** Dealing with the Audit Amendment Act.

What I would like to know, either from the auditor or from Mr Gerretsen, is whether the OHA, to use an example—I'm just raising the point because I think it was brought up before, but I'm seeing it in a different light—says they do undertake audited financial statements under the Corporations Act, because they're public corporations. So if they're doing that, and no CA firm is going to sign at the bottom, under generally accepted accounting principles, unless the numbers line up and there are notes made about what they owe and that kind of stuff, how does your bill enhance accountability and not produce duplication? It seems to me that if you're going to have a financial audit, OK, I don't care whom it's done by. What I'm interested in, if I'm a member of a hospital board, which I was, is whether we have the right numbers. We know where we're going financially. In this instance, are we going to end up with an audited financial statement to a given hospital board, and they pay their Cas? Because that's what is required under the Corporations Act, and if this bill goes through, you can go in and then do an audit of the books again. Or will you take the material of the audited financial statement from that given hospital, where the CAs in a firm signed and said, "This is the shape of this operation in this hospital"—it's not in good shape, whatever the numbers are. How are we going to prevent the duplication?

**Mr Peters:** The duplication is already prevented. Under my act, currently, I can do financial audits of hospitals. I'm not doing them because I consider it a waste of taxpayers' money if we have to pay a private sector firm and then my office does it again.

What this act does is, it allows us to do so-called value-for-money audits of hospital operations and com-



pliance audits of the legislation, which the private sector firm is not doing.

**Mr Hastings:** Which is only a financial number.

**Mr Peters:** They are just doing the financial numbers. They can tell you whether the financial statements of a hospital, and I've been on a board myself, present fairly. But they cannot tell you whether the emergency ward is working efficiently and where it's achieving value for money from the \$7 billion that we are transferring to the hospital sector. Hospitals cannot afford to fund and do that. We can do it under our mandate, particularly because we also have the skill set that can do it.

I'm offering you, really, a minimal increase in the funding level of my office. It doesn't mean that we can do 180 hospitals in a year. It means that maybe we can do one, and one big one. We will have to be very judicious and do a risk analysis as to whether to do the audit. This act gives the Legislature essentially an insight into whether or not the hospitals are spending their money prudently and for the purposes intended, and whether the colleges and school boards are doing the same etc. That is the mandate that is actually sought in this legislation. We would not duplicate the financial audits.

**Mr Hastings:** Mr Gerretsen, then, or to yourself: if we're going to go that road, which I don't have a problem with per se, does the bill then allow for the audit of public hospital foundations? A large number of hospitals, actually small hospitals too, now have foundations for raising dollars, which have to be audited under the foundations and charities legislation.

**Mr Gerretsen:** Presumably not the foundations, unless they are a grant recipient and get money from the government toward the foundation. But foundations, generally speaking, by their very nature get money from other organizations or individuals—so not the foundations as such; only those areas where they're getting direct money from the government in one way or another.

I totally agree with the auditor. My main purpose for bringing this act forward was to get to the value-for-money type of situation that he annually reports on. Right now we can only report on those situations where there are actually ministries or crown corporations—not even crown corporations. Let's just talk about the ministries. This allows them to take it one step further and, if need be, do it with respect to school boards, colleges, universities, hospitals or any grant recipient.

I would think that his office would be very judicious, because this was brought up during the discussion of this bill when it was debated on second reading. He's not going to audit an organization that may get a hundred bucks from the government, I wouldn't think. Obviously, he's mainly going to be involved in those situations where there are significant transfers of money. About 60% of our provincial budget is being directly transferred to other organizations.

**Mr Hastings:** OK. Can I make one further comment? On your list, John, one that's missed, and there may be others: under economic development or the tourism

industry, the Toronto Convention and Visitors Bureau is missed. I suspect there are probably similar ones throughout Ontario which aren't included on your list that have had, maybe not getting recently, grants, either capital or operating, in the last few years. I wouldn't have that information. Kingston probably has a convention and visitors' bureau. When it started up, it probably got some monies for the bricks and mortar; maybe not now. I don't know. Do you think they should be included?

1030

**Mr Gerretsen:** Just so that you understand those lists, this all gets back to the amendment that's currently before you: to change the name of the Provincial Auditor to Auditor General. That has certain implications in other acts. What the legislative counsel did was go to the other acts where the name "Provincial Auditor" is mentioned and basically said, "If you want to be consistent and if this amendment passes, then the names have to be changed in these other acts." He's only dealing with those acts where the Provincial Auditor is mentioned, not with respect to any other acts where his name isn't mentioned. That's a whole different argument that you're bringing forward.

**Mr Hastings:** It's consistent with, if we're going in that direction—there has to be legislation in the past that created these convention and visitor bureaus, or whatever they're now called: "Toronto" something. They have different names. They had monies given to them for their construction. That's in the past. All I'd like to know—I don't need to know now—is whether the act that governs the monies flowing to those organizations in the past or present—when they do the list, they should probably be included if "Provincial Auditor" was in the act. Would you know that, Erik?

**Mr Peters:** That is left to the legislative researcher. If "Provincial Auditor" was mentioned in the act, then it's probably listed on the schedule that you have just received.

If I may make one additional comment, the intention of the act is that my office can follow taxpayers' money right to the grant recipient. So if the organization that Mr Hastings mentioned is a grant recipient in a significant way, then we can follow the money. That's what the legislation is structured to do: that we can follow the money right through to assure the taxpayer, give a reasonable assurance, that the money is used for the purposes intended and wisely, even by those organizations if they receive subsequent drafts.

**Mr Hastings:** Right, OK.

**Mr Peters:** The same with foundations. If a foundation, for example, is self-funding and normally has a financial audit, there is no value in a value-for-money audit and we wouldn't do it. If the foundation receives substantial money from the province, then we may want to take a look at it, if they receive it directly.

**Mr Hastings:** I don't think any foundations get money except on that dollar-for-dollar matching deal that was around a few years ago. Where you have a foundation contributing \$1 million or \$8 million to a specific

capital upgrade or new equipment in a hospital, then there's a transfer of that money to the hospital's corporation. Does that mean, where you went in and did an audit where a hospital foundation had flowed money across for capital, as an example, you would then do an audit of the foundation?

**Mr Peters:** No, we most likely would rely on the financial audit of the foundation that is already carried out. If we, for example, were to find that a foundation spends extraordinary amounts of money to raise funds and that money is provided by the hospital, we would certainly have an interest in that. We would take a look at the way the hospital funds the foundation.

**Ms Di Cocco:** I think it's important that we don't lose sight of the fundamental premise of what changes this act does. We can't assume that—and I believe the auditor said so—private audits don't apply sometimes to the value for money. It's about following public dollars and it's about real accountability when it comes to the dollars that are spent that are taxpayers' dollars. Public corporations, and I believe hospitals are one of them, that act more like private companies because they don't have any, unlike municipalities, etc—they have not even a transparency aspect in how they conduct business. It's up to them as individuals or as individual entities. So I would suggest that we move forward and certainly support the change, because I believe it really is time, and it is about real accountability. I fundamentally believe that.

**Mr Gill:** I'm just curious whether this will extend to the value-for-money audit for the so-called SuperBuild-type corporations like Harbourfront, where there are matching funds from provincial, municipal, federal. It's substantial money we're looking at.

**Mr Peters:** It already does, actually, because the fact is that we have just been appointed the auditors of SuperBuild, and once my office is appointed as the auditor of the organization, the full content of the Audit Act as it exists applies to it. So that is already done. It would be independent of this bill.

**Mr Gill:** OK.

**Mr McDonald:** I'm going to support this amendment. Maybe I can be the first to ask the Auditor General one question: do you have any concerns that the public sector partners might not have the resources to accommodate these value-for-money audits? Do you have any concerns at all?

**Mr Peters:** You mean the partners that the government has with it, that we do value-for-money? Well, to begin with, we will be very judicious in this. I would not propose that we do a value-for-money of General Motors Canada because they are receiving a \$10,000 grant for apprentices, to use an extreme example. But also, in the value-for-money aspect we will be very judicious in assessing whether the audit itself provides value for money. Part of our approach is that we don't want to spend taxpayers' dollars on auditing when there is no benefit to the taxpayer. So we take a very judicious approach, a risk-analysis approach, to doing this, and I

can give you the assurance that we won't do frivolous audits. For example, it could be realistic that the government itself would—let me step back for a moment. The funding of my office is entirely from the Legislature to do our work, through the Board of Internal Economy, so there would be no cost to the private sector for us to do—

**Mr McDonald:** The public sector, I said.

**Mr Peters:** —the public sector to do this audit, except for the amount of potential increase restoring us. In 1996, when this came up to a vote, I gave this committee assurance that we would not increase the funding, but what I'm saying is that I would like to get back to that level of 1996, because I can't accommodate it with the current level. But I'm talking about maybe \$1 million over two years, which would be still a fairly insignificant amount of money, particularly in the amount of payback we have achieved for the taxpayer. In the 10 years that I've been in office, I can say that we have earned for the taxpayer, if our recommendations are implemented, at least half a billion dollars, and that is quite a good payback.

**Mr McDonald:** Is there a dollar figure attached to what you do per audit? If you go in and audit, let's say—we'll use the \$10,000 grant to General Motors as an example. When you finish your audit, do we know how much it cost for you to do that audit?

**Mr Peters:** The individual audit?

**Mr McDonald:** Yes. Would you attach a dollar value to it so that the public sees what it cost to do that audit?

**Mr Peters:** We do it internally, and we certainly would be accountable for it to the Board of Internal Economy if they asked for the information. But there is no mechanism in place under which we publish these amounts.

**Mr McDonald:** Do you think it might be appropriate that we do that?

**Mr Peters:** Yes and no. The concern about it would be that it could affect the independence of my office. If somebody says to us, "In two weeks, go in and do, for \$10,000, what you can do," that would certainly be a scope inhibitor. It would not allow us to carry out the scope of the audit we would like to do. We do our audits based on the risk assessment and we do that internally, but that is done to safeguard the independence of my office.

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**Mr McDonald:** There would be nobody telling you what scope to do, but at the end of your investigation, if you went in and did an investigation you thought was appropriate, do we know or is there some mechanism so we know that, "Yes, we went and did that audit and this is what it has cost the taxpayers for that individual audit"?

**Mr Peters:** Yes, you can get that. For example, this committee could ask for it and we would probably provide the information.

**The Acting Chair:** Can I remind the committee that we have on the floor a request by the mover, Mr Gerretsen, for unanimous consent to deal with this name



change. That's still on the floor. I would ask you to consider that. On the advice of the clerk, I had moved that this was out of the scope; however, with unanimous consent, you can move ahead to look at the name change and to address the first motion.

**Mr Gerretsen:** To follow up on that, if that is carried, there are about 15 other simple name changes. I assume the unanimous consent will apply to those situations as well, or we can deal with them as we go along, because it wouldn't make any sense to have it in one case and not in other cases where the name basically follows.

I should also indicate that Ms Martel indicated to me that she would not be here until about 11 o'clock because they're dealing with the Romanow report, but she concurs with the amendments as proposed. She indicated that to me earlier.

**Mr McDonald:** Chair, we're fine with that.

**The Acting Chair:** OK. So I take it we have unanimous consent to move ahead.

**Mr Gerretsen:** I believe I have moved the first amendment.

**The Acting Chair:** The first is for section 1:

"(0.1) The definition of 'assistant auditor' in section 1 of the Audit Act is repealed and the following is substituted:

"'deputy auditor' means the Deputy Auditor General;"

All in favour? Agreed.

**Mr Gerretsen:** The second amendment is not in that same category. This is actually a change to the proposed act.

I move that the definition of "grant recipient" in section 1 of the Audit Act, as set out in subsection 1(2) of the bill, be struck out and the following substituted:

"'grant recipient' means an association, authority, board, commission, corporation, council, foundation, institution, organization or other body that receives, directly or indirectly, a payment in the form of a grant or other transfer payment from Ontario, an agency of the crown or a crown controlled corporation; ('bénéficiaire d'une subvention')"

The main change, if I might just address it, is that the words "directly or indirectly" have been included in the definition. This was at the suggestion of legislative counsel.

**The Acting Chair:** Any discussion on this? I will call the vote. All in favour? The section is passed.

**Mr Gerretsen:** Amendment number 3 deals with this definition situation again, so it's much like number 1.

I move that section 1 of the bill be amended by adding the following subsection:

"(3) The definitions of 'auditor' and 'Office of the Auditor' in section 1 of the act are repealed and the following substituted:

"'auditor' means the Auditor General;

"'office of the auditor' means the Office of the Auditor General;"

**The Acting Chair:** Any discussion or comment? All in favour? Passed.

**Mr Gerretsen:** The fewer members, the more co-operative we get.

**The Acting Chair:** We now have to carry section 1, as amended.

**Mr Gerretsen:** I move it.

**The Acting Chair:** Shall section 1, as amended, carry? Carried.

**Mr McDonald:** Mr Chair, we support all these amendments. Maybe Mr Gerretsen has to read them all out for the record but he doesn't need to go into detail if it's not necessary.

**Mr Gerretsen:** I'll just read them into the record then.

I move that the bill be amended by adding the following section:

"1.1 The act is amended by adding the following section:

"References to former names

"1.1 A reference in an act, regulation, order in council or document to a person or office by the former title of that person or the former name of that office set out in column 1 of the following table or by a shortened version of that title or name shall be deemed, unless a contrary intention appears, to be a reference to the new title of that person or the new name of that office set out in column 2:

"Column 1: Former titles and names

"Assistant Provincial Auditor

"Office of the Provincial Auditor

"Provincial Auditor

"Column 2: New titles and names

"Deputy Auditor General

"Office of the Auditor General

"Auditor General."

I so move.

**The Acting Chair:** Shall section 1.1 carry? All in favour? Good.

**Mr Gerretsen:** I move that the bill be amended—this is number 5—by adding the following section:

"1.2 Section 2 of the act is repealed and the following substituted:

"Office of the auditor

"2. The Office of the Auditor General shall consist of the auditor, the deputy auditor and such employees as the Auditor General may require for the proper conduct of the business of the office."

**The Acting Chair:** Comments? Shall section 1.2 carry? All in favour? Fine.

**Mr Gerretsen:** Section 1.3 of the bill:

I move that the bill be amended by adding the following section:

"1.3 The following provisions of the act are amended by striking out 'assistant auditor' wherever that expression occurs and substituting in each case 'deputy auditor':

"1. Section 6.

"2. Section 7.

"3. Section 8."

**The Acting Chair:** Comments? All in favour? Shall section 1.3 carry? Carried.

**Mr Gerretsen:** Section 2 of the bill, subsection 10(2) of the Audit Act:

I move that subsection 10(2) of the Audit Act, as set out in section 2 of the bill, be amended by striking out “needs to perform duties under this act” at the end and substituting “considers necessary to perform duties under this act.”

**The Acting Chair:** Comments?

**Mr Gerretsen:** That’s again at the suggestion of legislative counsel.

**The Acting Chair:** OK. All in favour? Passed.

**Mr Gerretsen:** Motion number 8: section 2 of the bill, subsections 10(3) and 10(4) of the Audit Act:

I move that section 10 of the Audit Act, as set out in section 2 of the bill, be amended by adding the following subsections:

“No obstruction of auditor

“(3) No person shall obstruct the auditor or a member of the office of the auditor in the performance of an audit or conceal or destroy any books, papers, documents or things relevant to the subject matter of the audit.

“Offence

“(4) Every grant recipient who knowingly contravenes subsection (3) and, if the grant recipient is a corporation, every director and officer of the corporation who knowingly concurs in the contravention is guilty of an offence and on conviction is liable to,

“(a) a fine of not more than \$2,000 or imprisonment for a term of not more than one year, or both, if the person is not a corporation; or

“(b) a fine of not more than \$25,000, if the person is a corporation.”

Just by way of explanation, basically what’s happened is that the suggestion was made that two of the subsections under the current section 13 of the act were moved into this section, where they make more sense.

**The Acting Chair:** Those in favour? All right, this is passed.

Shall section 2, as amended, carry? Carried. All right.

We’re now moving to section 2.1.

**Mr Gerretsen:** “2.1 The act is amended by adding the following section:

“Accommodation in grant recipient

“11.1 For the purposes of exercising powers or performing duties under this act, the auditor may station one or more members of the office of the auditor in a grant recipient and the grant recipient shall provide the accommodation required for the purposes of this section.”

This is in there because I understand there have been situations where sometimes the auditor hasn’t been given the proper room in order to conduct his audit in the places where it’s to take place.

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**The Acting Chair:** Comments? All in favour? Carried.

Shall section 2.1, as amended, carry? All in favour? OK, passed.

**Mr Gerretsen:** I move that the bill be amended by adding the following section:

“2.2 Clause 12(2)(c) of the act is repealed and the following substituted:

“(c) the examination of the summary financial statements of Ontario as reported in the public accounts and shall express an opinion as to whether the summary financial statements of Ontario as reported in the public accounts are presented fairly in accordance with appropriate accounting principles as recommended for governments by the Canadian Institute of Chartered Accountants;”

**The Acting Chair:** Procedurally, I have to notify you that this, because it is beyond the scope of the bill, hasn’t been opened in the section. The only way you can proceed with this is if you have unanimous consent.

**Mr Gerretsen:** I would request unanimous consent.

**The Acting Chair:** Do we have unanimous consent? All right. You may proceed, Mr Gerretsen.

**Mr Gerretsen:** I move that what I said already be adopted.

**The Acting Chair:** Comment on that? All in favour of section 2.2? Carried.

**Mr Gerretsen:** I move that the bill be amended by adding the following section:

“2.2 Clause 12(2)(c) of the act is repealed and the following substituted”—oh, no, that’s not necessary. Sorry. We did that. Because 10 was passed, that’s not necessary. So we get to 12.

“2.3 Clause 12(2)(f) of the act is amended by striking out ‘agencies of the crown or crown controlled corporations’ in the portion before subclause (i) and substituting ‘agencies of the crown, crown controlled corporations or grant recipients.’”

**The Acting Chair:** Like the previous one, this section wasn’t opened in the bill either. In order to proceed, you’d have to have unanimous consent.

**Mr Gerretsen:** I’d request unanimous consent. The only words that have been added are “grant recipients.”

**The Acting Chair:** Do we have unanimous consent?

**Mr Hastings:** That covers that point about convention authorities and whatever that act is, right?

**The Acting Chair:** So we have unanimous consent? All right. Shall this clause carry? Carried.

Shall section 2.3, as amended, carry? Carried.

**Mr Gerretsen:** “3. Section 13 of the act is repealed and the following substituted:

“Audit of grant recipient

“13.(1) The auditor may audit a grant recipient to the extent that the auditor considers necessary and may require the recipient to prepare and to submit to the auditor a financial statement that sets out the details of the disposition that the recipient made of the grant or other transfer payment that it received.

“Time of receiving payment

“(2) The auditor may audit a grant recipient under subsection (1) in respect of a grant or other transfer payment that the recipient has in its possession on or after the day subsection (1) comes into force, even if the recipient received the grant or other transfer payment before subsection (1) comes into force.”



**The Acting Chair:** Comment?

**Mr Hastings:** My comment is that it goes back to the point, Erik, that we were talking about. Assuming this goes through, you'd go in and audit a hospital, one of the large public hospitals, and require the CEO or the auditors under the Corporations Act to provide you with information, material which they already would have anyway. My point is under the part that says "a financial statement that sets out the details of the disposition that the recipient made of the grant." Say the hospital down the street got \$5 million. I interpret that then to mean that they now have to prepare a separate statement just about the \$5 million—whatever the number would be—on the size of the grant and how it was disposed of, utilized etc, or would you get that already, presumably, in the financial statements audited under the Corporations Act and then you ask for clarification about the \$5 million or \$25 million, whatever it would be? How would you proceed?

**Mr Peters:** The operative words are really "may require." In other words, if we considered it necessary, if they had the information, we would use available information. If it is not prepared, then we may require that it be prepared, that they do at least an initial accounting to us as to how they spent the money that they received from the government.

**Mr Hastings:** So is your experience the same as mine, then, being on a public hospital board, you give them a pass if they've already got that? So it would be shown in their audited financial statement under the Corporations Act, and you or one of your reps would be asking for further clarification?

**Mr Peters:** That's right. Incidentally, that particular section—

**Mr Hastings:** I guess my point is, it would have been included in those old statements of the board you were on, right? They had to, right?

**Mr Peters:** That's right. They have no choice. Also, I just want to point out that 13(1) is no change from the existing wording in the act. That's already in. The main change is really in the time of their receiving grant payment. What it says is that if the organization has the cash still on hand, it would be subject to audit by us. For example, if you remember, about two years ago the government gave \$1 billion to the hospitals for further construction. Now, if they argued to us they got that two years ago but they still have the cash on hand, they could say we couldn't audit how they could spend it. So this section says that if you have the cash still on hand, we can audit how you spend it.

**Mr Hastings:** And require it back if you haven't spent it?

**Mr Peters:** No, that would be under the contract that the hospital signed with the government.

**Mr Hastings:** Because it's already going out, right?

**Mr Peters:** That's right.

**The Acting Chair:** Those in favour of this section? Carried.

**Mr Gerretsen:** The next one is not necessary, since motion 8 carried. So number 15, section 4 of the bill, subsection 14(1) of the Audit Act.

**The Acting Speaker:** OK, I have to ask, shall section 3, as amended, be carried? Carried.

**Mr Gerretsen:** I move that subsection 14(1) of the Audit Act, as set out in section 4 of the bill, be struck out and the following substituted:

"Examination on oath

"(1) The auditor may examine any person on oath on any matter pertinent to the performance of the auditor's duties under this act."

**Mr Hastings:** What's different from what it is now?

**Mr Peters:** Previously, it says, "on any account that the auditor may audit," and we found that a rather archaic phrasing, so the lawyer just suggested that we clean it up a little bit.

**Mr Hastings:** Modernizing it, OK.

**The Acting Chair:** All in favour? It's passed.

Shall section 4, as amended, carry? All right, section 4 is carried.

**Mr Gerretsen:** I move that the bill be amended by adding the following section:

"4.1 Section 20 of the Act is repealed and the following substituted:

"Staff

"20. Subject to the approval of the board and to sections 20, 25 and 26, the auditor may,

"(a) employ the professional staff and other persons that the auditor considers necessary for the efficient operation of the office of the auditor; and

"(b) determine the salaries and the terms and conditions of employment of the deputy auditor and the other employees of the office of the auditor."

I move unanimous consent that this matter be included in the bill since that particular section was not opened up.

**The Acting Chair:** That's right, so in order to proceed with this I have to say it is out of order, because the act isn't opened up in the bill. However, you can proceed under unanimous consent.

**Mr Gerretsen:** I request unanimous consent.

**Mr Hastings:** What's "board" here? Board of Internal Economy?

**Mr Peters:** Board of Internal Economy.

**Mr Hastings:** That's what I thought it meant.

**The Acting Speaker:** OK. This is moved by Mr Gerretsen. Comment? All in favour? OK.

**Mr Hastings:** My suggestion would be that it should be named.

**The Acting Speaker:** All right. Passed.

**Mr Hastings:** Mr Chairman?

**The Acting Speaker:** I'm sorry.

**Mr Hastings:** Just a moot point, I guess: section 20 should have the actual name of the board in there.

**Mr Gerretsen:** Well, the board's name is actually included in the act.

**Mr Hastings:** In the first section?

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**Mr Peters:** Yes, it's defined in section 1.

**Mr Gerretsen:** In the existing Audit Act it says “‘board’ means the Board of Internal Economy.”

**The Acting Chair:** Did I get that carried, section 4.1? OK.

**Mr Gerretsen:** I move that the bill be amended by adding the following section:

“4.2 Clause 21(1)(a) of the act is amended by striking out ‘Provincial Auditor’ and substituting ‘Auditor General.’”

That’s in line with our earlier—

**The Acting Chair:** You’d need unanimous consent. Agreed? OK. All in favour? Passed.

Shall section 4.2, as amended, carry? Carried.

**Mr Gerretsen:** I move that the bill be amended by adding the following section:

“4.3 Subsections 22(1) and (2) of the act are amended by striking out ‘assistant auditor’ wherever that expression occurs and substituting in each case ‘deputy auditor.’”

**The Acting Chair:** You require unanimous consent.

**Mr Gerretsen:** I request unanimous consent.

**The Acting Chair:** OK. Any comment? Those in favour? Carried.

Shall section 4.3, as amended, carry? Carried.

**Mr Gerretsen:** I move that the bill be amended by adding the following section:

“4.4 Section 26 of the act is repealed and the following substituted:

“Conduct and discipline

“26(1) The auditor may make orders and rules for the conduct of the internal business of the office of the auditor and, subject to this section, may for cause suspend, demote or dismiss an employee of the office of the auditor or may release an employee of the office of the auditor.

“Application of Public Service Act

“(2) The provisions of the Public Service Act and the regulations made under it that apply where a deputy minister exercises powers under section 22 of that act, except the requirement for a deputy minister to give notice to or to obtain the approval of the Civil Service Commission, apply with necessary modifications, as if the auditor were a deputy minister, where the auditor for cause suspends, demotes or dismisses an employee of the office of the auditor or releases an employee of the office of the auditor.

“Grievances

“(3) An employee whom the auditor for cause suspends, demotes or dismisses may file a grievance with respect to the auditor’s decision.

“Application of Public Service Act

“(4) The provisions of the regulations made under the Public Service Act that apply in relation to a grievance mentioned in those regulations apply with necessary modifications to a grievance mentioned in subsection (3) as if the auditor were a deputy minister.”

**The Acting Chair:** You require unanimous consent for this.

**Mr Gerretsen:** I request unanimous consent.

**The Acting Chair:** OK? Agreed. Any comment on this motion? All in favour. Passed.

Shall section 4.4, as amended, carry? Carried.

**Mr Gerretsen:** I move that section 5 of the bill be struck out and the following substituted:

“5(1) Subsection 27(1) of the act is amended by striking out ‘assistant auditor’ and substituting ‘deputy auditor.’

“(2) Subsection 27(2) of the act is repealed.”

I request unanimous consent.

**The Acting Chair:** All right. Mr Gerretsen moved a section 5 amendment. Shall the amendment pass? All in favour? OK, passed.

Shall section 5, as amended, carry? Carried.

**Mr Gerretsen:** Section 6 of the bill, subsection 27.1(1) of the Audit Act:

I move that subsection 27.1(1) of the Audit Act, as set out in section 6 of the bill, be amended by striking out ‘assistant auditor’ and substituting ‘deputy auditor.’”

Again, I request the unanimous consent.

**The Acting Chair:** All right. Do we have unanimous consent? All right. Comments on the motion? All in favour? Passed.

**Mr Gerretsen:** I moved that subsections 27.1(2) and (3) of the Audit Act, as set out in section 6 of the bill, be struck out and the following substituted:

“Personal information

“(2) No person shall collect or retain personal information on behalf of the auditor unless the auditor determines that it is necessary for the proper administration of this act or a proceeding under it.

“Retention of information

“(3) If the auditor retains information relating to the medical, psychiatric or physiological history of an individual or relating to an individual’s health care or well-being, the auditor shall,

“(a) remove all references in the information to the name of the individual and any other identifying information;

“(b) retain the information by using a system of identification that does not disclose the name of the individual or any identifying information referred to in clause (a);

“(c) ensure that the information is not,

“(i) disclosed to any person who is not authorized to have access to the information,

“(ii) used or disclosed for any purpose not directly related to the auditor’s duties under this act,

“(iii) published or distributed in any manner that would allow the identity of the individual to whom the information relates to be ascertained or inferred, and

“(iv) combined, linked or matched with any other information if the result could be the identification of the individual to whom the information relates, unless the combining, linking or matching is necessary, in the opinion of the auditor, in order for the auditor to perform his or her duties under this act.

“Definition

“(4) In this section,



“‘personal information’ means personal information within the meaning of the Freedom of Information and Protection of Privacy Act.”

This replaces 27.1, on the advice of legal counsel, to bring it more into conformity with the Freedom of Information and Protection of Privacy Act.

**The Acting Chair:** Comments?

**Mr Hastings:** You’re going to find all kinds of data on the notes of physicians and psychiatrists that are in the patient data file of a patient treated under the OHIP act, and that stuff I understand can be cracked pretty easily by some of the best people.

I just had a chat with a psychiatrist regarding this. He had a fellow psychiatrist who was given computers from Washington crack his own database on the information. There’s all kinds of stuff in there about whoever’s being counselled about whatever. This is very explosive stuff.

I know it says what it says, John, but the privacy commissioner should probably be looking at the vulnerability of data on everybody in the OHIP servers. You’re now going to get this capacity under this act to see that information, especially with the medical compliance people from MOH, as to whether a psychiatrist has billed for the right number of hours—very explosive.

**Mr Gerretsen:** Could I just make a comment on that? Currently, in the existing act, there’s no reference to the freedom of information act at all. What my original bill did was mention the freedom of information act to deal precisely with the issue that you’re dealing with. What legislative counsel has done is flesh it out a little better, if my understanding is correct.

**Mr Peters:** What has happened is that when we originally had hearings on this in 1996, I specifically asked if the privacy commissioner could appear before the committee to deal with this. Their lawyers had actually drafted a section at that time. The section has been updated within the last month or so by the privacy commissioner, at our request. So what you see here before you has been drafted by the privacy commissioner of Ontario.

**Mr Hastings:** What does it mean practically, though? You’d go in, or one of your office reps, auditors, goes in and looks at a group of psychiatrists in a practice—it could be any type of doctor or health care practitioner. As I understand it, all the identifiers, the personal data—because doctors are now very fearful about not being in compliance on the capping, they make notes when they’re diagnosing somebody, especially when they’re counselling as a psychiatrist. That data, I assume, is just there when you go to look at a group of practices or ones associated with a hospital, all those interrelationships.

It says what it says in the act, but I’ll lay you a dollar to a doughnut there isn’t any way they can separate out the personal data of the number of billable hours a psychiatrist gave in counselling to people. The medical compliance group in MOH gets this information, the raw data. They want to know, “Did you actually do what you said you did when you billed for those hours?” So if they see it, I don’t see why one of your office people wouldn’t

see it. There’s not a way right now to separate out the data that says, “Yes, psychiatrist A did the billable hours,” but you don’t see the patient files or the comments about said patient, whoever that person is. We don’t have any way, from what I’m told. I could be wrong. I think it’s a very interesting issue that you might want to look at very carefully, Erik, as you get this authority under this bill, probably, later.

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**Mr Peters:** I can promise you due care, but I also want to make the point that this has been very carefully vetted by the privacy commissioner and by their legal counsel. That’s why we took special care with this amendment, that this was totally cleared. It also pertains to information that we retain in our files. I think the likelihood of us putting medical records into our working papers is fairly unlikely.

**Mr McDonald:** I share Mr Hastings’s concern on this as well. I guess I’m just a little concerned, Mr Peters, that you said, “Not very likely.” That’s not, to me, a very strong reassurance that this won’t happen. Having said that, I’m inclined not to support this part of the motion. I do have some concerns on it as well.

**The Chair:** Do you think you want to comment on that?

**Mr Peters:** If I may: when I said “likely,” I can give you the assurance that we won’t carry it forward. What this section really says is that we can access the record. For example, if a hospital says, “We performed an appendectomy,” we can look at the patient’s file to see that they actually did an appendectomy, but it does not mean that we pull each personal file into our working papers. There’s no need. When I’m saying, “Not likely,” if we find, for example, in our review that they charged for an appendectomy and they actually did a hysterectomy, then they will probably want to know what file we looked at and which file we found this in. The hospital would want to know themselves when we discuss it with them. That’s what the likelihood is referring to. It would stay within the confines of the hospital and we would have to get agreement, as we normally do on an audit—get factual agreement. If we find the file showed a hysterectomy that actually was an appendectomy, then we would agree at ground level that they agree with the facts of the finding. We would have to do that, but once resolved, it stays out of our working papers.

**Mr Jim McCarter:** Maybe if I could just comment, what this is getting at is we might be looking at bulk purchasing of drugs, and in looking at that, we might see the names of patients. What this section is intended to do is that while we might see that in doing our work, we probably wouldn’t need that sort of information in our work papers. We wouldn’t put it in. If we did need that sort of detail, what this is saying is that we don’t want any individual names of patients in the work papers. You have to have a unique identifier system, like A1, A2 and A3, so that there would be nothing in our work papers which would identify any patients’ names.

**Mr McDonald:** I'm still inclined not to support this. I still have concerns. We might be able to get there some way, but as of right now, without taking further study of this and going through it, I think I have an obligation not to support this amendment.

**Mr Gill:** The auditor mentioned this misdiagnosis, malpractice or whatever you want to call it. We have different disciplining committees to look after that, whether it was a vasectomy or whatever else. I'm not sure if we need to really get there from the auditor's point of view, whether the hospital is providing the proper procedures. I know in value for money you might say, "Why not?" But I think we already have our disciplining committees who look after whether the proper medication was given or whether proper procedure was done. I think we may be getting a little too deep into something where we may not belong.

**Mr Peters:** I agree with you. We are aware of this, but actually, by voting against this, I really see a problem here because this section was put in to restrict our access. If this section is not in, we have unlimited access and we can use the information for audit purposes any way we like. What this section said, and what we were willing to submit ourselves to, is the restrictions imposed by this section.

So I just want to caution you that by voting against it you may achieve the opposite, because at the moment the Audit Act has absolutely no constraints on information that I can get at. In order to deal particularly with concerns raised by the hospital association, we were voluntarily putting this section in to put the necessary restrictions on my office with regard to medical records. By voting against it, you would actually vote for unrestricted access by my office; it would have the opposite effect. I would like to throw that caution out. That's why we took such great care, with this particular section, of getting the privacy commissioner involved. I'm very concerned that if you were to vote against this, it might not serve the purpose you have. I should alert you to that, in all fairness. I can live with it out, there's no doubt about it, but it would broaden the power of access to information and retention of information beyond what I believe is necessary for my office to conduct its work. This is a restrictive clause, not an enabling clause.

**Mr Gerretsen:** That's my understanding as well. Legislative counsel is here and maybe she's willing to address it. The whole idea of the amendment was to restrict their power, not to open it up—and I'm not sure whether legislative counsel came up with this or whether it was through the freedom of information people—so that it would actually restrict his ability to use it. I would ask if legislative counsel, who has worked on the bill with me, could address that.

**Ms Catherine Macnaughton:** The wording was provided by Mr Gerretsen's office. It was not created by our office.

**Mr Gerretsen:** But do you have any comment as to whether or not this restricts his use of the wording or the other way around?

**Ms Macnaughton:** There are currently no provisions in the act dealing with FOI.

**The Acting Chair:** What does this section do?

**Ms Macnaughton:** What the Provincial Auditor has indicated.

**Mr Hastings:** I appreciate John's efforts to deal with this issue, in terms of trying to separate out the information which has personal identifiers in it from what the auditor's new office is trying to achieve, in terms of whether the value-for-money purpose is realized.

My major reservation with it is not so much the wording as whether he would be agreeable to having us get some good IT people to look—or we can go and see how it's handled now. And does the wording in the statute give people sufficient protections against the disclosure of personal information from a technological viewpoint? That's where my doubt comes in. I'm not relying just on one anecdote. We already know what has happened before, regardless of which party was in power, regarding the disclosure of personal data. All you have to do is look at the media. The hackers seem to be able to get into anything. I think what we need to have is a little more—you won't get it ironclad, but we'd get it closer to that level or that standard by getting some of the IT people to look at this. You have a lawyer there, and we actually have some IT people who understand what we're trying to accomplish in his bill and whether it is sufficient. From a legal perspective, I presume it is, but I'm not satisfied that it is from a technological viewpoint. Usually, those two worlds don't converge; they go the other way.

I don't know how you want to handle it. I don't want this thing ending up that we don't act on it, but I want that reservation reasonably satisfied. I think having some good IT people here on data management is the way to go, and not necessarily from the government, but from the private sector. We get both viewpoints, possibly with some outside legal advice on that section as well. I don't know how this deals with proceeding with the bill, but that's my major hang-up. If we can get that satisfied, I think that would go a long ways to dealing with creating the balance between privacy protection and disclosure of the info on the billable hours side.

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**Mr Gerretsen:** Mr Chair, I'm prepared to withdraw this amendment at this time.

**The Acting Chair:** I have just been advised by the clerk that if this section is withdrawn, there is still section 27.1, information confidentiality, which you might want to take a quick look at.

**Mr Hastings:** What page is that on?

**The Acting Chair:** That's on page 2 of the bill, section 27.1.

**Mr McDonald:** If I can just go back, and I heard Mr Peters's concerns, in number (2) it says, "No person shall collect or retain personal information on behalf of the auditor unless the auditor determines that it is necessary for the proper administration of this act or a proceeding under it." I guess my question is, where's the check and



balance on you to retain? You could arbitrarily basically say, "I think we should keep this information." So how are we protecting Ontarians?

**Mr Peters:** That's in fact what this section was supposed to do. Section 3 says that if we retain information—it's only with information retention that we can remove all references in the information to the name of the individual and other identifying information. What we would do, actually, in reality—and we have done this in others—is that we would ask the hospital what they consider identifying information. We would ensure that we are in agreement with them, that we have no information on the file that they consider in any way inappropriate. That would be the check and balance.

The second check and balance is that we have a no-name policy. If you know our report, it sometimes gets frustrating for this committee when we, for example, say, "Before you is the CRF, the community reinvestment fund audit, which is also on the agenda today," we won't even identify a municipality; we just say municipality A, B or C. That will be how we deal with it.

We have been very careful in all regards that we do not publish inadvertently through our report information that should not be brought into the public domain or that destroys privacy. That's why we took this extraordinary amount of care with this section. This section has not only been subject to the privacy commissioner appearing before this committee, but also to deliberate update, and that includes IT and the legal counsel of the privacy commissioner. It was not done idly; it took them quite a bit of time to do research on this and update it. The restriction was that the background of this was that the hospital association came and said, "Look, we don't want the auditor to have access to medical records." So we said, "OK, how do we deal with this?" And the best way to deal with this is to deal through another offer of the Legislative Assembly, the privacy commissioner, and have them look at the issue. And that is the best up-to-date advice they could give us.

The IT question is a good one. They have dealt with that. Also, we have to have a broader aspect. I don't know which hospital you were on, Mr Hastings, but the board that I was on, we were in the process of developing the IT. The IT area, the integration of patient records in hospitals, is certainly something that is currently under development in many hospitals as to how to get information technology going on it. We may get good information in some hospitals, but we may get as good information but still manually prepared in other hospitals.

I appreciate Mr Gerretsen's effort to withdraw it, but I would consider this a restrictive clause, and if it were removed we would not have restrictions. This is what worries me. It's information as up to date technologically, legally and in every respect as we could bring to this committee on this area. I in a sense plead against myself, because right now we would have full access under the other sections. This restriction would make our life easier too in dealing with hospital administrators.

**Mr Hastings:** My suggestion would be that if Mr Gerretsen wants to withdraw it, fine, but I think we should pursue these specific items so that if it ends up later that you have to introduce a separate section, fine, or if you want to—and I'm not doing this to defeat your bill, by the way, so take it in the spirit you want, John, but in my estimation it doesn't satisfy my concerns, despite what Mr Peters says about it having the best technological protections in there. It may say it does. That doesn't mean it's translated practically. That's why I think if you withdraw it, I would support you in trying to find a way to bring it back later; or we get it dealt with, get the government side—because we've been accused of being sloppy on this before.

Understand my point: the point is that Mr Peters says that from a legal and technological perspective all the concerns are balanced and met, and if this section's withdrawn, we're back to open season on personal identifiers because there aren't any there in the existing act, whereas yours does that. I understand that, but second to that—

**The Acting Chair:** There are restrictions in the bill already. This is just an amendment to a particular section.

**Mr Gerretsen:** Can I just address that for a moment? I know we're talking about a lot of things. After the bill was given second reading, it was passed over to the privacy commissioner as a matter of due diligence, I suppose, and they came up with the idea that basically said, "Instead of having 27.1(2) and (3) in there, we think it's a better way to handle it by these amendments of (2) and (3). That's the long and the short of it. They think that protects people better than what's in the current bill. They came up with it; I didn't.

**Mr Hastings:** That may well be their belief. I'd like to submit and challenge their belief in front of some good IT people, database administrators, and hear from them, both inside and outside the government. With all due respect to the privacy commissioner, we're dealing with this from a legal perspective. She's had some bland assurances from other lawyers, outside and inside government, but I've very seldom seen a good lawyer who has an IT practice as well. They don't combine them very much. We just accept on face value. I'm sorry, in this instance I'm not accepting that.

**Mr Gerretsen:** But my bill—

**Mr Hastings:** It's a nice assurance, great.

**Mr Gerretsen:** My bill says in (3), "If the auditor retains information relating to the medical ... " he shall "remove all references in the information to the name of the individual ... " and

"(b) retain the information by using a system of identification" other than the name of the individual.

That is what my bill says. I'm prepared to live with that and to work out whatever else needs to be done at some future date, but I thought my bill already had that in there. They came back with the idea that "We think this is a little bit better." Quite frankly, I can take it or leave it as far as the amendment is concerned.

**Mr McDonald:** In subsection (3) it refers to medical records. What about payroll records or business contracts? It doesn't address that at all.

**Mr Peters:** Because to those we have totally free access. There's no restriction on that; otherwise it would restrict our audit. If you remember, we had a bill before that talked about termination contracts and stuff like that. If we couldn't look at those, I don't think there would be a point in auditing. Right now, the act gives us full and free access to all the information we consider necessary for the purposes under the Audit Act. We have that access. This particular section is just a refinement that was put in, just a voluntary restriction that we put on. If you do not want it in, we are quite happy if it is withdrawn. It would help us. The drafting of it certainly helps us to do a protocol. To deal with Mr Hastings's concerns, I think that part of our audit of a hospital would be in particular the IT area and its security, like what firewalls are built in so that hackers don't get at the information etc.

We do IT audits and we have a special IT section so that we could give the assurance to the Legislature that the IT process is actually proper. I say that with some background of my own, because I was in charge of the IT committee of a hospital and we were very aware of that. I think that may be a way of dealing with the situation. The security issue is an issue that we would have to address in an audit, whether the legislation is saying this or not saying the other. So I would say that for proper conduct of the committee, I urge you to deal with it either way. If you want it out—but I would prefer, I would urge you actually—it has been a 12-year battle to get to this point and I would really appreciate it if we could get on with it and deal with the act.

**Mr McDonald:** I hear Mr Hastings's concerns. In subsection (2), what if we were to say "no person shall collect or retain personal information on behalf of the auditor," period?

**Mr Peters:** That would be an extreme constraint because that would mean that we could really not do a value-for-money audit. I'll give you a very practical example. One of the criteria for good nursing care is the incidence of bedsores, because that means patients were not moved properly etc. So if we wanted to talk about nursing care and have an inquiry into that and they could say, "No, that's the personal record of the individual. You cannot find out whether any patient in a hospital actually had bedsores," that would be such a restriction on the audit, to use a micro case, that we could not conduct a proper value-for-money audit. We do need this discretion that is necessary for the proper administration of the act.

That's all we would use it for, because under the old subsection 27(2) of the act, we cannot use the information for any other purpose than for the purposes of the Audit Act or if there is something to do with the Criminal Code. We cannot use the information for any other purpose in any event. It's a beautifully balanced piece of legislation. It says on the one hand, "You can have access to the information necessary to conduct the audit but you cannot use the information for any other purpose than under the Audit Act." In that regard, we have a balance here.

**Mr McDonald:** Chairman, could we ask for a five-minute recess just so we can get some clarification? Is that fine with you?

**The Acting Chair:** OK. We'll recess for five minutes. *The committee recessed from 1134 to 1147.*

**The Acting Chair:** We'll resume the committee meeting.

**Mr Hastings:** Section (b) of section 6, subsection 27 on page 22. "Retention of information": there's (a), (b). The focus I want to put on is:

"(b) retain the information by using a system of identification that does not disclose the name of the individual or any identifying information referred to in clause (a)."

I would like to amend the amendment of (b) to provide certain wording that says, "retain the information by using a system of identification at the source"—of the server—"that the Provincial Auditor would utilize by taking out the personal identifying information of an individual or institution"—hospital, in this case—"so that the auditor only sees the generic information."

**The Acting Speaker:** OK. Just let me get the wording down.

**Mr Hastings:** "Retain the information by using a system of identification at source that separates personal identifiers from generic information."

You would say, "Does that only apply to the Ministry of Health?" No. That would apply to information by a social services counsellor in corrections, say, or a parole officer.

**The Acting Chair:** Now, what do you take out of there, John?

**Mr Hastings:** I'd take out the wording after "identification" that says "that does not disclose the name of the individual or any identifying information referred to in clause (a)." So the purpose is that you end up with a system of identification that separates out personal, confidential identifiers from generic information by the utilizer.

**The Acting Speaker:** Did you want to add "confidential" in there?

**Mr Hastings:** I didn't before, but probably it should be in there, that legislative counsel is trying to create. So at source you have a system, not afterwards, because right now these ministries—it's all together, as I understand it. So the obligation is on the auditor's office to create a system that separates out, not just by firewalls or encryption, whatever technology is needed to make sure the balance is retained between getting your billable hours, whatever it is, and personal identifiers. That's the essence of this amendment to the amendment.

**The Acting Chair:** John, let me just see if—"retain the information by using a system of identification at source that separates out personal and confidential identifiers from personal information."

**Mr Hastings:** "From generic information."

**The Acting Chair:** "From generic information."

**Mr Hastings:** "Of the user" or "for the user"; in this case, the auditor and the people he or she is auditing.



That's the essence of it. I'm trying to retain some of the—

**The Acting Chair:** What was that? From generic—

**Mr Hastings:** "From generic information by the user."

**The Acting Chair:** "By the user." OK.

**Mr Hastings:** That could be either the auditor's office or the people who had to provide the information—a psychiatrist or a corrections parole officer or even down to the corporate, although that's already available.

**The Acting Chair:** I think we have that. Let's ask the clerk if she can read this.

**Clerk of the Committee (Ms Anne Stokes):** Subsection (3), clause (b) would read:

"(b) retain the information by using a system of identification at source that separates out personal and confidential identifiers from generic information by the user;"

**The Acting Chair:** This is an amendment to the amendment to clause 27.1(3)(b), that it be replaced by the wording that was just read by the clerk. Are we all in favour? Agreed.

Now the amendment as amended. Does that carry? Carried.

Shall section 6 of the bill, as amended, carry? Carried.

Sections 6.1 and 6.2: essentially that's that sheet of paper I had gotten out before. There was a technicality in the identification of the table on page 3 of that set out in the table to section 6.1. It was incorrectly identified as another section, so that's essentially identifying what the proper section is.

**Mr Gerretsen:** Is it necessary for me to read this whole thing or can it simply be filed?

**The Acting Chair:** If the committee agrees to accept this document, he doesn't have to read this out.

**Mr Gerretsen:** Then I would move that the bill be amended by adding that following the heading about sections, complementary amendments, as outlined in the three pages that are now filed with the clerk.

**The Acting Chair:** Shall new sections 6.1 and 6.2 of the bill carry? Carried.

Shall section 7 carry? There are no amendments. Carried.

Section 8.

**Mr Gerretsen:** I move that section 8 of the bill be struck out and the following substituted:

"Short title

"8. The short title of this Act is the Audit Statute Law Amendment Act, 2002."

The reason it's necessary is because it's affecting the other acts we passed on the schedule.

**The Acting Chair:** Shall the amendment to section 8 carry? Carried.

Shall section 8, as amended, carry? Carried.

**Mr Gerretsen:** There is one other amendment.

I move that the long title of the bill be amended by striking out "to insure" and substituting "to provide."

I understand that this needs unanimous consent because it deals with the title of the bill. It's just that I feel that the word to "provide" is better than to "insure" because the auditor, in my opinion, doesn't insure; he provides a service. So I'll ask for unanimous consent.

*Interjections.*

**Mr Gerretsen:** I've asked for unanimous consent.

**The Acting Chair:** He's got that, but the clerk is suggesting that this doesn't affect the act—or it doesn't affect the auditor, rather. It's the act that's insuring and not the auditor.

**Mr McDonald:** Maybe Mr Gerretsen could tell me the difference between "to insure" and "to provide." What is your thought?

**Mr Gerretsen:** My thought was that "to insure" provides more or less the notion of giving a guarantee that if something happens, something else happens. The auditor doesn't do that. The auditor provides a service that gives us the best opinion as to whether or not programs are carried out on a value-for-money basis.

**The Acting Chair:** The clerk has pointed out that it's the act that is insuring and not the auditor in this particular statement.

**Mr Gerretsen:** If she thinks it's out of order and if that's it, then I'm prepared to withdraw it. I would never challenge the clerk's authority.

**The Acting Chair:** So you will withdraw that?

**Mr Gerretsen:** I'll withdraw that.

**The Acting Chair:** All right. So the title is the original title.

Shall the title of the bill carry? Carried.

Shall the bill, as amended, carry? Carried.

Shall I report the bill, as amended, to the House? Carried. Very good. Shall do.

Thank you very much. Now, we have a—

**Mr Gerretsen:** Could I just make a statement? I would like to thank all of the committee members for working on this and being so co-operative in giving greater insurability and accountability to the auditor's office. So I'd like to thank Mr Galt for your participation today, Mr McDonald, Mr Gill and Mr Hastings, and of course my own colleagues, and especially Ms Martel over here.

**Mr Peters:** I would like to thank the committee as well.

**The Acting Chair:** We had another piece of business, the committee's report, did we not? Or should we leave that till the next—

*Interjection.*

**The Acting Chair:** We'll leave the committee's report until next week and we'll deal with that as the first item. Thank you very much, ladies and gentlemen. We are adjourned.

*The committee adjourned at 1158.*











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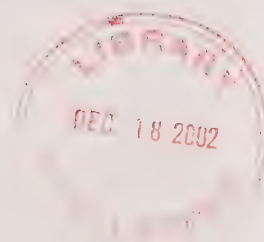
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STANDING COMMITTEE ON  
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COMPTES PUBLICS

Thursday 5 December 2002

Jeudi 5 décembre 2002

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**The Chair (Mr John Gerretsen):** I'd like to call the meeting to order. Let me just start off by saying that Ms Martel has notified the clerk that she will be a bit late this morning, but she has asked the committee to proceed in her absence, so we can continue.

Good morning to everybody. I'd like to first of all start off with the first item on the agenda, which is the overview of the 2002 annual report of the Provincial Auditor of Ontario. Before turning to Mr Peters, I understand that not all parties may be in a position to select their areas of further study. What I've suggested is that we have a subcommittee meeting on Tuesday afternoon right after question period and, hopefully, each caucus will then bring their three selections for further study during the intersession next year. So the second item can be taken off the agenda, then.

Mr Peters?

**Mr Erik Peters:** Thank you, Chair. Because not all of you were able to be at the media conference, what I thought I would do this morning is just go over some of the chapter summaries from the media conference. There are other items that were mentioned in the media conference that are well known to the committee—for example, the amendments of the Audit Act and issues of that nature. But I just wanted to provide you with a little bit of a highlight of what we said and the context in which we put it.

Since 1993, when I issued my first annual report, I have repeatedly expressed the view that the legislative auditor's role is to be a catalyst for action that will address problems identified during the audits, improve the government's delivery of programs and help ensure that value for money is received by Ontario's taxpayers. To fulfil this role, we make recommendations and obtain commitments from management to take action on our recommendations.

In many cases, we find that action is taken to address the issues we raised during our audits. In other cases, however, action to address concerns we have raised has been slow, fraught with problems or is taken only when problems arise that make action imperative. Some of our concerns reappear from audit to audit. For instance, in

my 1998 annual report, I reported our concerns about certain features of the agreement of the Ministry of Community, Family and Children's Services entered into with Accenture, then Andersen Consulting, to develop and implement the necessary and complex—and I can't underemphasize that they were necessary and complex; for example, they were necessary because my office had recommended many of these steps over a period of over 10 years—business transformation of the welfare delivery system now called Ontario Works.

Based on my 1998 report, your committee also raised concerns and put them in writing in a report to the Legislature. Also, that report exhorted the ministry to try to renegotiate the contract. At that time, the ministry made efforts to renegotiate the contract and shift some of the risks from the taxpayer to Accenture. However, the binding terms of the original contract stymied that effort. As a result, the taxpayer continued to take virtually all the financial and performance risks of this project, and the consultant continued to reap a disproportionately large share of the financial rewards.

As indicated in this report, by March 31, 2002, the ministry had paid Accenture about a quarter of a billion dollars and received a new service delivery system that we found was flawed. At the time of our audit, the system had numerous unresolved defects and was not providing the expected support for the administration of Ontario Works. More time and millions of tax dollars will be required to bring the system up to snuff. In many respects, I consider this project to have been a very costly learning experience for the ministry, and therefore also the taxpayer.

One of the ministry's intentions in engaging Accenture was for Accenture to transfer its knowledge to ministry staff so they could operate the system on their own and receive all the benefits accruing from it. However, this knowledge transfer apparently did not occur, or did not occur to the extent necessary, since Accenture has recently been engaged under a three-year contract to operate the system. The \$38-million cost of this contract will certainly eat into the ministry's benefits from the new system. There's no doubt there will be benefits. Whether they're all attributable to Accenture is really what is at question, or to the extent that they are attributable to Accenture is in question.

With respect to the administration of the Ontario Works program, we found that the requirements for



determining recipient eligibility for financial assistance and for providing that assistance in the correct amount were often not met. For example, in the case of one of the service managers—and as you know, the service managers are municipalities, largely—that we visited, 95% of the files we reviewed lacked at least one of the information requirements necessary to establish eligibility and to ensure the correct amount of assistance is paid.

We also included in our report significant observations on the government's management and use of consulting services. We selected this area for audit because we had found value-for-money problems and waste in the use of consulting services in past audits. We also noted that the amount the government was spending on consulting services more than doubled between 1998 and 2002, from \$271 million to \$662 million per annum. We selected six ministries for the audit and found that, in many respects, consulting services were not acquired and managed with due regard for value for money. Key concerns included the following.

We found a number of cases where hundreds of consultants were engaged at daily rates that were up to two to three times higher than the salaries of ministry employees performing similar duties. In one example, 40 ministry employees left a ministry and returned within a few days to work as consultants at daily rates that were more than double what their salaries had been as employees.

We found that consultants for information technology projects—and probably the biggest growth area in the consulting contracting area is information technology. These consultants were engaged, at costs of tens of millions of dollars, without open and competitive tendering processes being followed for a variety of reasons. In many cases, consultants were paid amounts that exceeded the contracted amount without evidence that the terms of the engagement had been changed. In a number of instances, the ministries engaged consultants at a daily rate instead of on the basis of a fixed price for a fixed deliverable. This is not a good practice in that it means the longer it takes consultants to complete an assignment, the more they will be paid. In following this practice, the ministries were also unnecessarily assuming the risk of missed deadlines and cost overruns. Similar problems in consulting services also figured in some of our other value-for-money audits of government programs.

Some of the other significant observations in my report this year include the following—and this is sort of the listing of some of the major chapters that I wanted to bring to the attention of the committee.

In our audit of the community services program of the Ministry of Public Safety and Security, we found that, at the time of our audit, an estimated 10,000 arrest warrants had not been carried out by the police for offenders who had failed to report to their probation and parole officers and could not be located. Some warrants had been outstanding for up to 10 years, and many were for offenders

who had committed serious offences, including sexual assault and other violent crimes. While we recognize that once a warrant is issued, the police, not ministry staff, are responsible for apprehending the offenders, the ministry and the police need to work more closely together to capture these high-risk offenders so as not to expose the community to significant risk.

On this one I just want to add a brief comment, if I may. Apparently, a scrum took place between the minister and journalists, and I was not there. Four journalists have phoned me since that scrum took place. All repeated the same words to me, that the allegation was made that the number 10,000 was considered inaccurate or misleading.

As I said, I was not there. All I can say about this is that we go through a very rigorous fact-clearing process. We communicated in writing with the ministry beginning in June 2002, and the last communication took place—a letter from us to the ministry—on November 13, 2002. In none of these cases has the ministry disputed our numbers. In fact, just to round out the record, as a result of the communication of November 13—which is the final one where we're sort of saying, "This is what we're going to say. Are you OK with this in terms of facts?"—two deputy ministers came back to us and said, "We would like you to make factual adjustments." We investigated their request and found that they were correct, and in fact our report was adjusted for those two deputy ministers' requests. We had no such request at all from the Ministry of Public Safety and Security. There was no indication from them that our facts were not accurate.

Also, I should add that the 10,000 number—the minister is right; he stated in the House that was done by extrapolation. But it was not just that we cleared the number with the ministry; we cleared also with the ministry the methodology we used to determine that number. In fact, at one stage there was a higher number being discussed and we ourselves felt that we should adjust the methodology to a somewhat lower number, and that is the number we used in the report. So the methodology was agreed to with the ministry and the final number was agreed to with the ministry and considered by the bureaucrats in the ministry to be factually correct.

So the new information that has come out, which according to Hansard came from CPIC, is of some concern to us largely because CPIC is a system operated by the RCMP, and CPIC is a system where not necessarily all police forces enter the information. On top of that, to the best of my information, CPIC is not intended to provide statistical information. CPIC is actually intended to be of use to the police forces in their investigation of individual cases.

**Mr Bruce Crozier (Essex):** CPIC is, for the record?

**Mr Peters:** For the record, I don't know. It's the Canadian police—

**Mr Crozier:** That's why I asked. I'm not sure either.

**Mr Peters:** It's the Canadian police—

**The Chair:** Canadian police intelligence—

**Interjection:** Commission?

**The Chair:** Commission, I guess.

**Mr Crozier:** OK. Never mind. It's a small point.

**Mr Peters:** I wish I knew. I probably have it in my data somewhere, but—

**Mr Crozier:** We all know what it is—

**Mr Peters:** I may put it on the record after.

The concern is that we would be quite satisfied if the minister had said that he provided an update, but our number was clearly cleared with the bureaucrats of the ministry and it could not be characterized in any way as being either inaccurate or misleading. We clearly identified it as an estimate, we clearly agreed upon the methodology with the ministry and we clearly had no concerns expressed to us by the ministry on repeated requests for factual clearance that we were not accurate or that this was in any way faulty.

With respect to community mental health services, we found that the Ministry of Health and Long-Term Care did not have sufficient information to assess whether mentally ill people were being adequately cared for and whether funds provided for community-based mental health services were being prudently spent. This has been, again, a long-standing concern of my office. We have raised these issues in the past.

1020

In our audit of the activity of long-term-care facilities—again, issues we have raised in the past—we noted that the Ministry of Health and Long-term Care had not developed the necessary staffing standards for long-term-care facilities to ensure that residents are receiving the appropriate quality of nursing and personal care. As well, the ministry had not taken action on the January 2001 consulting report, which stated that residents of Ontario's long-term-care facilities receive less nursing and therapy services than those in similar jurisdictions with similar populations.

With respect to our audit of the Ontario Parks program, we noted that in many respects the Ministry of Natural Resources did not ensure the sustainable use and development of park resources and did not have an overall strategy in place to manage species at risk of extinction in the province.

I'm going through the value-for-money audits. There are other issues that I consider of equal importance as well. This is not necessarily a ranking; the sequence is not a ranking of issues.

As for our audit of the tourism program, we noted the fact that at least 11 provincial ministries have a tourism objective as part of their mandates. Given the significance of tourism to the Ontario economy—the estimate we received is about \$17 billion a year—we concluded that the Ministry of Tourism and Recreation had not taken a proactive leadership role in developing a long-term strategy to coordinate the many activities of public and private sector organizations that contribute to the promotion of tourism in Ontario. In addition, there were other weaknesses relating to the economy and efficiency in the delivery of the program. For instance, we noted that the main tourist guide lists only 1,400 of the estim-

ated 8,000 tourism facilities, and the 2001-02 winter events guide was published and distributed after some of the events listed in it had already taken place.

In our audit of corporations tax, we found that the Ministry of Finance did not have adequate policies and procedures in place to ensure that corporations tax was paid by corporations in accordance with statutory requirements. Specifically, almost one in two corporations on the tax roll did not file the required tax returns. This represents a significant jump from 1996, when we noted that one in five corporations did not file the required returns. At that time, even one in five was of concern to us and, I believe, to the taxpayers.

Corporations with revenues under \$500,000, which represent 87% of the corporations on the tax roll, were virtually excluded from the ministry's field and desk audit activities. Such audits are necessary to help close the corporations tax gap, which is the difference between the amount of corporations tax that is collected and the amount that should be collected. We found evidence to suggest that the tax gap may well be substantial. The ministry did not assess or evaluate the extent to which the overall tax gap affected provincial corporations tax revenue or the collection effort.

I would like to make one comment on one of the follow-ups we conducted of the audits we did two years ago. In 2000, we had reported concerns with the costs and completion date of the Ministry of Consumer and Business Services project to automate the land registration system. The results of our follow-up indicate that we were right to have those concerns. The original plans called for the project to cost \$275 million and to be completed by 1999, and to include 100% of the properties in Ontario. In the revised plan, negotiated in 2002, the project is expected to cost \$680 million, \$405 million more than originally projected, and to be completed in 2007, eight years later than the original schedule. Furthermore, only 87% of the properties will be converted and automated under the revised plan and, as I mentioned before, the original plan was to do 100% of the properties.

As I note in this year's report, I continue to have concerns about the government's plan to recover the \$20.1 billion of stranded debt of the electricity sector from the electricity ratepayers. In my view, there is a significantly increasing risk that taxpayers and not the ratepayers will ultimately have to absorb that debt, either in part or entirely. I hold this view, first, because the stranded debt has increased by about \$700 million since the restructuring of the electricity sector in the spring of 1999 and, second, because the financial performance of the electricity sector in the 2002 fiscal year was well below expectations and resulted in Ontario's taxpayers absorbing \$341 million of electricity sector costs.

I should also mention that if you look at the public accounts, there is also a restatement of the results of the electricity sector for the preceding year, which is a significant downward revision by about \$226 million—from about \$244 million down to \$18 million. That is in the public accounts of the province.



As well, the earliest estimated date for paying off the stranded debt has been delayed by two years, from 2010 to 2012.

I should add to the last comment that I made about the \$244 million moving down to \$18 million was that that was a result of new accounting rules established by the Canadian Institute of Chartered Accountants. They were retroactively applied by the hydro company. There is nothing wrong with it; it was the right thing to do. They were new accounting rules. It's not a matter of poorer performance or anything like that. It was simply a retro-active application of accounting rules that, for example, the government itself has opted to apply prospectively, which was also allowed under those rules. So it was both ways.

My concerns about the recovery of the stranded debt have been further heightened by the potential impacts of the recently announced plan to freeze electricity rates and of the delays and cost overruns in bringing Pickering A on stream.

In future, I urge the government to carefully evaluate the impact of any planned privatization or any other changes in the electricity market on the ratepayers' ability to pay off the stranded debt and the time required to do so.

I should add, having talked about the finances on the positive side, I'm pleased to report that the government recently announced that as of April 1, 2003, the province's financial statements, budgets and estimates will all be prepared on the same basis of accounting, which is the full accrual basis of accounting. This will bring all financial reporting in line with the accounting standards which are recommended for governments by the Public Sector Accounting Board of the Canadian Institute of Chartered Accountants. For several years, I have been advocating this new and consistent approach which will result in improved financial accountability and more useful information for government decision-making. I'm very pleased to note that.

That pretty well concludes the comments that I want to make as an opening. I'd be happy to answer any questions the members may have.

**The Chair:** Any questions or comments?

**Mr Crozier:** Mr Peters, on the question of figures that are in your annual report, this one in particular but others, when those figures are questioned, and particularly when they're questioned outside of the Legislature—here is where my question is going. You're an officer of the Legislature and report to the Legislature. What method do you have of responding to some comments that may be made about your report, and does it impede or frustrate your office in any way when some of these comments are made?

**Mr Peters:** To answer the second part first, it doesn't directly impede the work. Certainly any action that is taken that questions the credibility of the report is of concern to us. That leads to answering the first part of your question.

The best way that I have available is to raise it with you, because my report is referred to this committee for

future action and it is important for you to know what my response is to these challenges that are made to my report. That's what I've done today. I've alerted you to the challenge.

I have also alerted you to the fact that I was not there when the comments were made and that I had to react. The only point that brought it to my attention was that I had four journalists phone me and ask for my reaction. I told all of them that I was not there and that all my comments are prefaced by the fact that I was not there. What did concern me was that the wording of the statement that was referred to me was identical in all four cases. That added credibility that there was something said that I had to react to.

1030

**Mr Crozier:** Just as a follow-up comment—

**The Chair:** What I'm suggesting is that we go in rotation. Let's say about 10 minutes for each caucus for the first round. You've used about three minutes, so go ahead.

**Mr Crozier:** Just as a follow-up comment, this committee has always been one in which I think we have been able to approach subjects in almost a non-partisan way. I am one who feels that it is within this committee that we then can allow the auditor and ourselves to express our opinions so that the integrity of the Office of the Provincial Auditor is always maintained at the highest standard. I'll conclude my remarks with that.

**Mr Dave Levac (Brant):** Thank you, Mr Peters, for your clarification, because there are some things that concern me. I want to follow up on that last statement by Mr Crozier with a question to the Chair regarding that. Can this committee offer any kind of comment to the House regarding the behaviour of any other member in this place?

**The Chair:** Are you asking me that?

**Mr Levac:** Yes. Does the committee have the authority, in its reporting back to the House, to make comment on issues regarding the auditor's report subsequent to the reporting of the House? If you report to the House, which you do—the committee reports—and you're offered an opportunity by the Speaker to make comment, are there any comments from the committee? If this committee decides—

**The Chair:** The reports that I present to the House are reports that have been approved by this committee. They are filed with the House and comment is made on them in the House.

We don't comment on the conduct of individual members of the House, either inside or outside the House.

**Mr Levac:** OK. Then can I follow up with that?

**The Chair:** But the concern of the committee traditionally has been the integrity of the Office of the Provincial Auditor.

**Mr Levac:** Therefore, if this committee decides that the integrity of the auditor has been challenged or has been sullied in some way, is it permissible for this committee to stand in its place to talk about the auditor's credibility and the process that was used to do his report?

**The Chair:** The committee operates by way of motion and passed motions.

**Mr Levac:** Having said that, I want to continue, then, because I need a clarification from Mr Peters. What was the earliest date that you started to communicate with the Minister of Public Safety and Security regarding the process and the numbers that you were going to use in the report? You said the last one was November 13, 2002. What was the earliest one?

**Mr Peters:** In a more formal way, of course, my staff continually has discussions with the staff of the ministry. I would think that in a verbal way this was raised as early as March. But in a more formal way, and with senior management of the ministry, our communication started in about June.

**The Chair:** Just so there's no misunderstanding, you talked about the minister.

You always deal with the ministry, Mr Peters?

**Mr Peters:** The ministry. We never dealt with the minister.

**Mr Levac:** I'll correct my word. Instead of saying "minister," I'll say "ministry."

**Mr Peters:** A very good correction, because in our audits we deal with the administration, not with the political side of any ministry.

**Mr Levac:** Thank you. What you also indicated to me—I think you said that between March and then starting officially or more formally from June to November 13, there were no responses back regarding the dispute of the numbers used, as in the arrest warrants outstanding at 10,000, or even the process or the methodology used to come to that conclusion.

**Mr Peters:** I can confirm to you that the senior management of the ministry neither questioned the methodology nor the number.

**Mr Levac:** As far as information is concerned with regard to CPIC, it's clear that CPIC is not a statistical data bank. It is a warehouse of information provided to law enforcement officers to use in the dispensing of their job, and not all police services submitted their outstanding arrest warrants to CPIC.

**Mr Peters:** On the last part, to the best of my knowledge, not necessarily all police forces enter their information. But we know very little about CPIC itself, so it would be beyond my purview to comment whether it cannot be used at all for statistical purposes. All I was relating was that the principal purpose of CPIC is to aid police officers in their investigations.

**Mr Levac:** I would confirm that. In my discussions with that office, it's a warehouse of information for police services, led by the RCMP, to give them information to conduct their business. It's not a statistical data bank. Having said that, I personally want to tell you I have no doubt that what you provided us was a good snapshot, a clear and factual report about the concerns you were raising inside that ministry regarding arrest warrants and any other issues that come to the fore. I congratulate you on such a thorough report and thank you for keeping the communication with that ministry open

from as early as March right through to November to ensure that those numbers you are using are factual.

**The Chair:** That's the 10 minutes.

**Ms Shelley Martel (Nickel Belt):** Erik, with whom in senior management did you have discussions? Was it with the DM or ADM of that particular division? Who was your staff dealing with?

**Mr Peters:** My discussions are virtually all at the deputy minister level.

**Ms Martel:** So it would be hard to imagine that the deputy minister wouldn't advise the minister (a) of the audit going on and (b) any concerns that there might be.

**Mr Peters:** I have difficulty commenting. How they communicate internally is their—I should add, though, that the deputy minister who was in charge of the department when we did the audit retired and left the department in July. Since that time, the duties of the deputy minister were shared between two ADMs who were in an acting capacity. But I've communicated with both of them.

**Ms Martel:** In any event, the bulk of your work would have been done by March 31, 2002.

**Mr Peters:** That's right, the fieldwork was done.

**Ms Martel:** So by July they would have seen everything that had to be seen and they would have seen your draft documents in terms of the report.

**Mr Peters:** Yes.

**Ms Martel:** They would have also drafted their own recommendations at that point, I would assume, to share with you.

**Mr Peters:** Not only the recommendations, but they were also drafting their responses to our recommendations.

**Ms Martel:** Let me move to our friends at Accenture for the fourth time that they have now been before this committee. I listened to the minister's scrum after the report was tabled and after there were some questions in question period. The minister essentially said that the technology is working and that there's no problem here. Do you want to comment to the committee about what you found when you did your review of this database?

**Mr Peters:** Allow me to go into my report specifically. I'll just go to chapter 3.01, which you have available to yourselves, where we talk about the new delivery system, starting on about page 36. I don't need to reiterate that if the committee decides, for example, to have the ministry here, you may want to go into all the problems. But, for example, on page 37, we noticed that "When service-manager staff encounter a problem with the information technology system, they ... contact their on-site expert who reviews the problem and determines whether it can be readily resolved. If the problem cannot be resolved, it is reported to the business transformation project's help desk, which prepares and logs an issue ticket. These tickets are then referred to business analysts and technical experts for their consideration...."

"If the problem is found to be valid, the analyst or technical expert creates a system investigation report (SIR). Because particular problems are likely to be



reported by various local offices and ticketed a number of times by the help desk, duplicate tickets are consolidated into one SIR.

"As of February 2002"—and that was in the middle of our audit—"the business transformation project had accumulated 10,600 SIRs. Of these:

"Nearly half were classified as 'system defects'"—this was agreed to with the ministry; these are facts; these were all agreed to with ministry staff—"of which 540 were unresolved at the time of our audit; and

"Approximately 5,700 were considered emergency or high-priority items of which approximately 550 were unresolved."

1040

**Ms Martel:** Erik, when it says "system defects," does that mean this is an issue that the system has to be overhauled? It's not something that's going to be resolved quickly.

**Mr Peters:** Clearly, many of them were resolved quickly, when you look at the numbers. In other words, if they had 5,700 and were able to reduce them to 550 in a relatively short period of time, that means they did resolve them. That's actually a very good performance. If you resolve 90% of the problems in fairly quick order, that's not a bad performance. The problem is with the 540 system defects.

**Ms Martel:** That's what I mean.

**Mr Peters:** They may probably take a longer period of time, but that may be a good question to ask the ministry, if you have them before you.

"Based on our review of the system and discussions with service-manager staff, identified system deficiencies can be ... categorized" into three groupings: "a failure to meet ministry or service-manager needs." Those are largely information needs. Did we overpay anybody? How much did it amount to? What is our cost to deliver services? What is the information base on which we can charge the ministry for the administration costs which the municipalities do?

"Unexplained errors and omissions." We highlighted one of them, for example, unexplained issuance of over 7,000 payments worth \$1.2 million to ineligible people.

"Internal control deficiencies." That one is of major concern in two respects. One is that we're very concerned that there's inadequate segregation of duty for individuals at ground level. They can add and delete files on their own authority and have access to the system without the checks and balances in place. We go into it at length, but this is just an initial answer to your question.

But the three intents that we have are to "reduce the time spent by caseworkers on clerical and other administrative duties thereby freeing up more time for providing services to Ontario Works recipients, including time spent on the program's employment focus." We found there were difficulties in that. Largely the system was put in in January, so it is fair that there was a learning curve. But at the time we did the audit, there was certainly a lot of time spent by caseworkers on becoming familiar with the system, entering data and understanding how the

system works. So the first objective at that time was at least not met.

"Provide more timely and accurate determination of recipient eligibility thus reducing overpayments, inappropriate payments and general system abuse." That's essentially the upfront system that they're talking about, where people phone in and are guided through a raft of questions. There were some concerns which occurred subsequently. If we had a hearing, I would bring this out. For example, I received one letter from a municipality that claims their costs have doubled and they are therefore abandoning the front end. That was subsequent.

"Improve access to the information necessary for effective program management and ministry oversight...." That was a problem area when we did the audit. Admittedly, it was in its infancy and starting out, but the size of the problems and the complexity were such that we felt that these things would take quite a bit of time to fix up and also quite a lot of dollars.

**Ms Martel:** Dollars to fix.

**Mr Peters:** Dollars to fix, oh yes.

**Ms Martel:** Any idea how many?

**Mr Peters:** No, we don't.

**Ms Martel:** The \$66 million that was paid to Accenture over the \$180-million cap—I understand where \$22 million was. It was essentially work that the ministry had agreed to do and didn't, so Accenture did it. What about the balance? What was that money for? What were they being paid for?

**Mr Peters:** Walter, would you—

**Mr Walter Bordne:** It's actually detailed in the report.

**The Chair:** I wonder if you could come forward here and take a seat.

**Mr Peters:** Which page are you referring to?

**Ms Martel:** It's on page 31.

**Mr Peters:** Page 31 produces the detail: the out-of-cap payments, our production support, help desk, application maintenance, out-of-scope work, and then there was \$22 million included which was the performance of ministry work.

One of the main difficulties that we pointed out in the previous reports—and I think this committee dealt with this as well—was the lack of definition of costs that were in the cap and outside the cap. One of the difficulties we found was that, even on renegotiation, there were difficulties in defining these particular costs.

**Ms Martel:** Have you seen the details of the new contract that has been signed with Accenture?

**Mr Peters:** No, we haven't. That only happened, I believe, in November. So that's very recent.

**Ms Martel:** When you were doing your audit, did the ministry indicate at any time that they would be extending their contract with Accenture for another three years?

**Mr Peters:** There were indications that they were considering at the time to go for a request for a proposal,

that they would make a proposal to get assistance in operating the system.

**Ms Martel:** Do you have a clear idea of what Accenture is going to be doing for this \$38 million?

**Mr Peters:** No, we have not seen the RFP or the exact terms of the agreement.

**Ms Martel:** So even though you were doing work in the ministry, all you understood was that there might be an RFP. The ministry didn't tell you what their needs were, what the reason was behind actually having to go out and do an RFP on a system that should be functioning by now.

**Mr Peters:** It wasn't that they didn't tell us; they just had not developed the RFP. But they had recognized fully that they needed assistance to operate the system. The \$22.2 million was the first indication that the ministry could not do the work they expected to do themselves, that they needed help.

**Ms Martel:** Did they explain to you why that was, why they were in a situation where, after paying Accenture since 1997, they still haven't been able to learn how to use the system themselves?

**Mr Peters:** Yes. We deal with this on page 35: "One of the objectives of the partnership between the ministry and Accenture was to foster sufficient knowledge transfer from Accenture to ministry staff to allow the transition of the operation and maintenance of the new information technology system from Accenture to the ministry upon completion...."

So one of the key areas is certainly that, as we say in there, "...the anticipated knowledge transfer was not sufficiently advanced with the result that the ministry was not in a position to operate and maintain the information technology system. Instead, Accenture and other private sector consultants provided nearly all of the technical resources necessary for completing, maintaining, and operating the information technology system after January 2002"—which was on the completion of the system—"at a substantial cost to the ministry. For example, Accenture's services were extended from January 26, 2002 to March 31, 2002"—so there was already an original contract—"to provide technical maintenance services at an estimated cost of \$5.7 million." Then, as I indicated before, "We understand that at the time of our audit the ministry was in the process of finalizing a decision on a request for proposals for technical maintenance services...." So that's covered in the report.

I think Walter is pointing out that, in the overall response, the ministry indicated to us that they were aware of the problem. They said, "Many of the issues identified by the Provincial Auditor were known to the ministry through its rigorous feedback process with users. We are continuing to address those issues with our delivery partners. The design allows for continuous improvement over the next few years, enabling the ministry to make many modifications and enhancements, working hand in hand with our other partners—the consolidated municipal service managers."

**The Chair:** That's on page 29. Can we turn to the government side now.

1050

**Mr AL McDonald (Nipissing):** Mr Peters, I don't really want to get into the area of who said what, but just for my own interest, you used the figure of 10,000 outstanding arrest warrants and you used the word "extrapolation." That's an awfully big word. Could you tell me what your definition of that word is?

**Mr Peters:** Well, there are over 40 units that provide parole services. We looked at—

**The Chair:** When you say "units," you mean different offices?

**Mr Peters:** Different offices that have parole officers in them. We visited a limited number of these, but offices that had a substantial caseload, and we found in those offices that there were significant numbers of outstanding arrest warrants.

We then said to the ministry, "Rather than visiting all the others, can we, together with you, the ministry, determine a methodology? Would it be fair to say that if we took all of them into account, the population would be a certain number?" Actually, as I said, it was originally a higher number, and we stuck it back, and the ministry said, "Yes, that's a fair assessment." When we said that one of them was over two years, that was certainly in the offices we visited. There may be others or whatever, but we were quite clear on that.

That's why we carefully couched it in the words that this was an estimate at the time, but it was a mutually agreed-upon estimate between the ministry and ourselves. The ministry's concern was actually not so much the number; the ministry's concern was that they considered the execution or carrying out of arrest warrants a police responsibility and that their responsibility stopped at the point of issuing the arrest warrant, of saying, "This particular person has not reported or has done something to violate parole." Then they considered it a police responsibility.

There are difficulties for the police as well. That's why I added the words "could not be located." For example, if the arrest warrant is issued by an office in Peel but the person against whom it is issued moves to Durham, how do you—

**Mr McDonald:** So I guess the definition really is a best guess used in a formula and multiplied by the number of offices.

**Mr Peters:** That's right. It was the best estimate.

**Mr McDonald:** So it really is an estimate, a best guess?

**Mr Peters:** That's all we said. So that's my answer.

**Mr McDonald:** I just want to go back to your comments about CPIC. You said that to the best of your knowledge, most police forces don't input information, or that you believe that maybe not all police forces input their information. If I'm driving down the road and I get pulled over by the municipal force or the OPP, what system do they check to see if there are any warrants against me?



**Mr Peters:** In the province of Ontario they actually—I'm not sure whether they have advanced yet. They used to have something called OMPPAC. It was an Ontario police force system. They would actually go first—or did at the time we did the audit—to a provincially operated system.

**Mr McDonald:** Would all the police forces in Ontario then input that information on that system?

**Mr Peters:** I'm not sure where they stand on this right now, because the system itself was part of the integrated justice system project. The revision to this is really part of that integrated justice project which we dealt with in this committee a little while back. So I can't answer your question as to the current status. I believe there has been an update of the system, but that would be the system that would be used in the province of Ontario.

**Mr McDonald:** You said that maybe this system couldn't be used for statistics, but if I have a warrant against me and I get pulled over and there isn't a system to say, "Yes, he has a warrant against him," or the police forces aren't all required to input the information into a central data bank, which is basically what this is. It was referred to as a warehouse of information. Is that not where we can get the exact figure, then?

**Mr Peters:** The police officer can get information on the particular individual they're confronting or dealing with at that particular time, but the system itself does not produce at this time to say there are so many arrest warrants outstanding. It will give the information on the individual.

**Mr McDonald:** So all the information is inputted, then.

**Mr Peters:** No, I have to say, to the best of my knowledge. We were informed by an OPP officer that not all municipal forces, for example, in Ontario put information into CPIC. And also the officer informed us that the system is not designed to provide statistics, and actually they have to go through extra hoops and difficulties in providing statistics out of the system. If the minister wants to do that, that would be great. That's up to their—

**Mr McDonald:** OK. Mr Peters, I just want to go back to one comment you made. You said when you went to the senior staff or the deputy ministers or the ADMs, they neither questioned nor disagreed with your figure.

**Mr Peters:** Uh-hum.

**Mr McDonald:** I guess, as an individual, does that make that right, though?

**Mr Peters:** That means that they agreed to the figure. We write the letter specifically. We say, "This is being sent to you for factual clearance," in all respects. These are words that we specifically introduce. So we are saying, "If you consider our facts wrong, let's meet, let's discuss and we'll check what the facts are." As I indicated, this vehicle is used in our audit almost continuously, but it was not in this particular case by the ministry. The ministry never came back to us. It doesn't mean we didn't clear other facts, but certainly this fact was not challenged.

**Mr McDonald:** OK. Just one final question and maybe I'll let the other members have a question. It says here on page 227, "We did not rely on the Ministry's internal auditors to reduce the extent of our work because they had not recently conducted work within the scope of our audit." So you're making reference that you didn't rely on the ministry's stats, but you did ask the question.

**Mr Peters:** A little bit different: we didn't rely on internal audit work, because what we are trying to do is—for the efficiency of the audit, we like to rely as much as we can on internal audit work done by the ministry. What we found here is that the internal audit had not done work on this parole system. But they would certainly be involved in the factual clearing process. It's part of our rules that we involve the auditors as well.

**Mr Raminder Gill (Bramalea-Gore-Malton-Springdale):** In terms of family and children's services—I think we were talking about the computer system previously—are you saying that in your opinion, the computer system is inadequate and it needs to be changed, or are you saying there are some system defects that are being addressed—90% have been addressed and the rest are being addressed?

**Mr Peters:** Yes, I think the words we're using are that at the time when it was put into being, it was still not sufficiently tested out, and it created certainly these SIRs and, yes, they were working on them and they were clearly working on them with—they couldn't work on them on their own. That's the point we're making. They had to hire consultants to further improve.

**Mr Gill:** You're not saying that the system needs to be scrapped and something else needs to be done, though?

**Mr Peters:** No, not scrapped, but it's certainly in need of significant improvement in a number of areas: in the areas of providing information for the proper administration, in the areas of internal control and in the areas of being transparent to the people who work with it to find out what is going on inside the system. For example, why does its spew out cheques that they don't know what they're for?

**Mr Gill:** In terms of the cost overrun—you know, \$40 million or whatever—you're not saying this is money wasted; you're saying they just did not identify that this work has to be done.

**Mr Peters:** Well, there are two answers to the question. In the previous two audits, we were told that there was some measure of pride, actually—and that was expressed before this committee as well—that they would contain the costs to the \$180-million cap. There was an expectation that the \$180 million would be it. We found in this audit that that wasn't it. There were costs that were not defined. There were also changes made to the ministry, saying that work they were planning to do themselves now had to be done by the consultants. So the cap was not maintained. It was initially considered a generous cap.

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**Mr Gill:** Going back to the Ministry of Public Safety and Security, if you want to touch base on that, is it the

first time somebody has sort of come back and said, "You know, I don't agree with your numbers," or do you go through this every audit?

**Mr Peters:** No, it has happened before, but normally—in fact, in recent times there was one particular instance where the ministry engaged a consulting firm to attempt to contradict our numbers, and the report was filed with this committee. It was at that time an instance where, again, even the consultants' numbers did not stand up to the test.

**Mr Gill:** So it's not the first time, though, somebody—

**Mr Peters:** It's not the first time. It has happened, but our process has proved to be pretty well ironclad.

**Mr Gill:** Thank you.

**Mr Garfield Dunlop (Simcoe North):** A couple of quick comments. One, I just wanted to say that I was involved this summer in a pilot project with the OPP, where they were putting computers in their vehicles. I believe there were 300 vehicles in the province that followed the 400 series of highways, basically the cellular range of them. My understanding was that in those vehicles, that system they had in place was in fact able to do CPICs and all that sort of thing. It's sort of a pilot project for police in their cruisers so that when they pull someone over, they can identify very quickly if there have been problems. My understanding was that system wasn't the same as that of some of the larger urban police forces, that in fact they have different ones across the province. I just wanted to put that on the record, that that is a pilot project the Ontario Provincial Police are working on. I think they are planning on expanding it across the province.

I'm always curious with the Provincial Auditor reports and the Auditor General reports, because my whole life I've been waiting for one to come out and say good things about the government.

**The Chair:** Oh, he did. You didn't listen to the last part of his speech. He also said something good about the Audit Amendment Act, Bill 5, that it should be passed.

**Mr Dunlop:** Oh, I see. I wasn't going to get into Bill 5. But I'm curious, with the size of government—and in particular this week when we had the Auditor General in the federal system and yourself here in the provincial system both release your reports, on maybe the same day, I think it was. How much contact do you actually have, or do you have any at all, with the Auditor General when we talk about the transfer of funding between so many different agreements that exist between the province and the federal government?

**Mr Peters:** Well, our contact is on a collegial basis. To talk to the date—actually, Sheila Fraser and I were in communication about the date, but by that time, my date had been cast in stone. I had written to the Speaker saying we were going to do it on a certain day. They were in a position where they just had to file, because I believe the federal Parliament is rising at the end of this week. So they had to get their report in on the calendar

year and that was the last date they could. So we finally said, "Let it take its course," and we filed the same day.

As far as working together, in the report there's actually one example where we worked together very strenuously, and for my office to work very strenuously on behalf of the province, and that was a result of the CCRA error that was made. If you recall, there was an error made by the Canada Customs and Revenue Agency. We agreed that we would work together with the Auditor General actually in the examination of the CCRA records to try to determine the extent of the error.

**Mr Dunlop:** So there definitely is contact, is what the point is.

**Mr Peters:** There is contact by the score. We talk to each other where we have overlapping programs or similar programs or similar problems. For example, in this report I raised the Ontario Innovation Trust again. Our problem is now in the \$1.1-billion range. The federal government's problem is in the \$7-billion range.

**The Vice-Chair (Mr Bruce Crozier):** Former Chair, is that round finished?

**Mr John Gerretsen (Kingston and the Islands):** I think that was 10 minutes. We may want to do another one.

**The Vice-Chair:** Just for the committee's information too, I have been doing a little bit of investigating. OMPPAC is the Ontario Municipal and Provincial Police Automation Co-operative. That's almost out of use now.

**Mr Peters:** That's right.

**The Vice-Chair:** It's old-fashioned. CPIC is the Canadian Police Information Centre. So there you go, a couple of acronyms and we now know what they mean.

Would the committee like to do another round, say, of 10 minutes each on this? We'll move on to the Liberal caucus.

**Mr Gerretsen:** I would like to go back to the whole issue relating to the Ministry of Public Safety and Security. What concerns me more than anything is the position of your office on this, sir. I think one of the most progressive moves that has been made by government over the last 10 years or so is to set up various offices of the Legislative Assembly, such as the Environmental Commissioner. I know that your office has been around ever since Parliament started back in the 1870s. It's the notion that you report to the Legislative Assembly. You don't work for the opposition, the way I understand it. You don't work for government. You report on how you, as an independent agency, as such, see the finances of the province or how you see the money being handled by the different ministries and the integrity of the office. Let me just ask you point-blank: if what is reported to have been said by a minister of the crown was actually said, and that is that somehow the report was misleading in some respect—

**Mr Gill:** He didn't say that.

**Mr Gerretsen:** I said "if"—would you feel that that would, in effect, attack the integrity of your office?

**Mr Peters:** I would certainly feel an obligation to set the facts straight. It would be of concern, yes.



**Mr Gerretsen:** Let me get into a totally different area, because the government member is somewhat nervous about this, I take it.

**Mr Gill:** It was a hypothetical question: "If this happened, then what?"

**Mr Gerretsen:** There are allegations out there from the media that this is what a minister of the crown has said: that this report was misleading.

**Mr Gill:** Yesterday in the House the minister said, "I didn't say it."

**Mr Gerretsen:** That's OK.

**The Vice-Chair:** Order. Let's keep this to comments between members and the auditor.

**Mr Gerretsen:** It remains to be seen whether the evidence is out there.

Let me ask you about the corporations tax situation. I find it incredible that apparently almost half of the Ontario corporations out there don't file an annual report, whereas it used to be one in five, which, as you stated, is quite high as well. Do you have any opinion as to why this is happening? Is it a question that there just isn't enough manpower or human resource power within the ministry to, in effect, send out the regular notices that used to be sent out? Do people have to file? Is that the main reason behind it?

**Mr Peters:** There are two that come to my mind. Walter, if you want, you can add. Walter Bordne was on that audit as well, so I'm glad he's here. As you can see, my guys are doing double duty. There are two answers. One is a matter of effort that is made to follow up with these entities. The other is, potentially, rule changes. The one rule change that comes to mind—Walter, again, jump in if you want to correct me—is that corporations were, in the past, entitled to file an exempt-from-filing certificate of some sort. That certificate was good for life, virtually; they didn't have to renew it. The procedures have changed. The corporations now have to file an annual information return that they're exempt from filing. That was one of the documents that was missing. Many corporations have not filed this exempt-from-filing. So we don't know and the ministry does not know whether these corporations are still active, whether they're inactive, whether they're still exempt from paying corporation taxes or whether they should still be paying corporation taxes. Can you think of any others?

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**Mr Bordne:** No, those are the two main ones.

**Mr Peters:** Those would be the two main reasons.

**Mr Gerretsen:** So what conclusion did you come to, then, from the fact that the corporation taxes from the economic statement that was filed yesterday in Ontario have actually gone down from some \$9 billion to just slightly over \$6 billion? I think there's about a \$2.6-billion difference in the corporation taxes that were collected last year over this year. Is there any connection in the fact that it has gone down by \$2.6 billion? Do you attribute that completely to the fact that the filings weren't done?

**Mr Peters:** No. At least the official reason that we received, and we had no basis for challenging the original one when we did the public accounts, was that there was in fact an economic downturn. I believe some element of reducing the rates at which corporations paid taxes was also involved in the year-over-year decline. There's no question that more appropriate effort in following up on these filers that are in default would probably increase the collection of taxes. There's an element in there, but how much of it pertained to that particular aspect neither the ministry knew nor did we know.

**Mr Gerretsen:** I have one other issue, very quickly, and that deals with the stranded debt of Ontario Hydro. If I read your report correctly, you're saying that as a result of the revenues not being as high as anticipated, in effect another \$341 million has been added to the stranded debt of the province.

**Mr Peters:** No, \$341 million of costs were absorbed by the taxpayer. This gets fairly complex. What was happening—let me back you into this for a minute. When the restructuring took place, the government also allowed the new companies to split their total debt into two portions: an equity portion and a debt portion. The equity portion was close to \$9 billion, about \$8.885 billion. The interest on that debt is absorbed as a cost by the taxpayer. So \$520 million is provided for in the public accounts annually. The decision was made that if the net income of the successor companies of Hydro were to exceed the \$520 million, every excess available would go to pay off the stranded debt. What happened in the year 2002 is that the combined income of both entities was only \$179 million, so it fell short. The government, therefore, did not recover all of the \$520 million from the electricity sector. Therefore, the difference between \$520 million and \$179 million was charged against the operating result, if you will, of the province.

**Mr Gerretsen:** So basically the debt of Ontario Hydro, in one way or the other, whether it's stranded debt, taxpayers' debt or ratepayers' debt, went up by an additional \$340 million. There's \$340 million more debt now than there was at the beginning of the year as a result of—

**Mr Peters:** This is a question that's open for debate, whether the \$341 million was met by issuing new debt or was taken out of the revenue for that particular year. It does not necessarily mean that the debt increased by that amount. It gets very complex, but the \$341 million had to be met somewhere. But I cannot point with certainty to the fact that it was met out of new debt or whether it was met out of tax revenues we earned in that year.

**Mr Gerretsen:** It could have been paid for last year, in effect, out of the general revenues of the province.

**Mr Peters:** Absolutely, that's the answer.

**Mr Gerretsen:** All right, that's all I wanted to say.

**The Vice-Chair:** You have about two and a half minutes or two and three quarter minutes.

**Mrs Lyn McLeod (Thunder Bay-Atikokan):** I'll just ask a quick couple of questions in areas that we might not get to.

You do follow-up reports on ambulance services and you cite the fact that the ministry has said that they have now put response time templates in place. Do you have any access to the information that would tell you, first of all, whether or not the response time templates meet or exceed the 1996 standard that was in place—or was supposed to be in place—when your last report was done? Second, your concern two years ago was that even that 1996 standard was not being met in I think about 50% of areas. Do you have any up-to-date data on whether the new response time standards are being met across the province?

**Mr Peters:** In this follow-up review we didn't get into that sort of detail, but it is certainly on our plate to look at in the future.

**Mrs McLeod:** You will be coming back to it?

**Mr Peters:** Yes.

**Mrs McLeod:** That's good.

I'm just going to touch on a number of areas, just to sort of flag them. The child welfare services program: again, in your report two years ago, you had made a number of recommendations about the need to provide support—at least that was my interpretation—for child welfare agencies to be able to meet at least the minimum standards of child protection that were required under the law. The ministry responded by saying, "We're going to take corrective action." Again, I guess you're not able to get in enough depth to find out whether the corrective action was taken or to deal with the ongoing deficit financing that CASs are having to do?

**Mr Peters:** I would have to go to the specific response. Do you have the page?

**Mrs McLeod:** They start at page 326, or on 328, the recommendations that directives be issued. There were directives around the compliance.

**Mr Peters:** Let me just take a very quick look. Is it the licensing you're referring to?

**Mrs McLeod:** It's more the context of your concern two years ago that there was not an assurance that the protection needs were being addressed. You made a number of recommendations for the ministry to ensure that the protection standards and services were being provided in a timely way.

**Mr Peters:** The key to that answer is actually at the top of page 328. "The ministry is planning to conduct child protection reviews in all children's aid societies commencing in October 2002...." So at the time we did the audit, that was still a planned activity.

**Mrs McLeod:** Could you just remind me, when you did the report two years ago—and I apologize for not having gone back to it—did you get into the whole issue of the in-year deficit financing of CASs and the requirement that they seek a line of credit from the bank in order to carry on their mandated activities?

**Mr Peters:** No, we didn't. The concern of virtually all of these organizations is that funding is provided on what is called a block funding basis as opposed to individual needs and service requirements of individual CASs. That has been a continuous theme of my reports. We really

feel that a lot of work needs to be done by the government to relate its funding to the actual level of services provided and the cost of those services.

**Ms Martel:** I have a final question on Andersen and then I'll move to some other areas. The taxpayers have now paid about \$246 million to this outfit. We have a product that is at least two years behind schedule in terms of the original completion date and we have a product that isn't working. Did we get value for money here?

**Mr Peters:** To date—

**Ms Martel:** It's not a trick question.

**Mr Peters:** That's why we're raising it. We do question the value for money. I can question it already from a very basic concept, and the basic concept is that under the original agreement Andersen was able to set the rate of pay that they were getting virtually for the life of the contract, without the ministry being able to do much about it. So that is questionable value for money.

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There was also questionable value for money in the fact that the original concept of common purpose procurement was that the consultant would invest the money and would only be paid if the benefits were actually earned. What has happened is that a special task force was agreed to by the early opportunities project, was agreed to by the ministry, so the consultant took virtually no risk and was paid quite a bit of money right off the bat.

I can answer your question that with those two aspects alone, did we get value for money? Did we get a fully working system on January 24, 2002? No. We got a system that is in need of quite a bit of work. We also did not have the knowledge transfer that was expected. We don't have a situation where the ministry is able to operate the system with its own resources. It requires continuous consulting. So all these factors, to name a few, lead me to conclude that there is a serious question whether we received value for money.

**Ms Martel:** The Chair of Management Board, in responding to questions about your concerns on consulting services of ministries, essentially said that Management Board has developed some new and different directives for ministries to now follow. When I look at your report, on page 181, you say, "We found numerous instances in which the ministries did not comply with the directive requirements." So it's not a question of not having the directives; they're not listening to them or they're not following them.

In terms of what you've found, the fact that the ministries' response or the Chair's response is essentially, "We're going to develop some new and different ones," does that give you any sense of hope that this situation is going to change?

**Mr Peters:** Well, twofold. In one area it may do, but we haven't looked at it. One of the concerns we had is that there was a conflict between the so-called vendor of records process and the ministry directives. So if that is fixed, that will be good news.



On the other hand, you're quite right. Our main observation is that essentially the directives are not bad; they're just not being adhered to. There is also very little mechanism in place by Management Board to ensure that they're being adhered to. Ministries seem to have quite a bit of leeway in their application of them.

For example, one of the cases we cite is that ministries have taken major projects—in one case a \$10-million project—and broken them into little pieces so that they didn't have to follow all the provisions of the guidelines for the little pieces. So it carved it up, in a sense.

**Ms Martel:** Let me ask you a question about long-term care, page 117. In the overall audit conclusions you say, "The ministry had still not developed either standards to measure the efficiency of facilities in providing quality care or models for staff mixes for providing nursing and personal care and, therefore, did not have a sufficient basis for determining appropriate levels of funding." And then you note that the ministry did not address the results of that very shocking 2001 report.

In terms of what you found, can you tell us, can the Minister of Health or the Associate Minister of Health actually guarantee that residents in long-term-care facilities are getting the care they need?

**Mr Peters:** That depends very much on the standard against which they measure.

**Ms Martel:** Well, there isn't a standard.

**Mr Peters:** And if there is not a standard, then you have no criterion to determine that. That's what you need the standard for, in order to assess that the care is provided the way it should be.

As regards the 2001 report, we point out that they have not yet taken action on that report. That report, of course, was fairly critical and truly required immediate action.

**Ms Martel:** In view of what you noted, which is that there isn't any standard—so the ministry is not in a position to determine if care is being provided because they have nothing to measure it against—the minister announced \$100 million in July and has done quite a song and dance to say that this is going to increase or improve quality of care. If there is no standard already in place, how can we know whether or not that \$100 million is going to do anything to improve the quality of care for residents in long-term-care facilities?

**Mr Peters:** I think that would be very difficult for them to assess on that basis because, if I remember correctly, the \$100 million really reflects more an increase in the per diems that they are providing. In other words, they're bumping up the dollars.

**Ms Martel:** In the nursing and personal care envelope?

**Mr Peters:** That's right. So the various mechanisms that they should have in place, for example, the inspection process, which was a concern to us, should include some sort of assessment, whether the money that is earmarked for nursing and personal care or program and support services or raw food or other accommodation costs is actually spent for the purpose intended. As we

noted on the inspection process, we had significant problems because there seemed to be no senior management review of the findings of the inspectors.

**Ms Martel:** And no mechanism to monitor compliance for nursing homes that regularly or routinely were out of compliance?

**Mr Peters:** At the senior management level, yes. I'm not sure I can answer as to what the individual inspectors actually do when they go in. What we did find, though, is that while we mention dietitians going in and finding more problems in the dietary area, once they went in, there's a similar concern—and I'm not sure whether we have it in the report—about how schooled and how trained inspectors were in the financial area, if they could actually examine the books and relate what was being spent on the individual categories of spending. So that would be an additional concern, as to what the training level of inspectors is.

**Ms Martel:** Great. Thank you.

**Mr McDonald:** I have just two quick questions and then Mr Hastings has a few as well. Back to the arrest warrants, and 10,000 was a best guess through your estimates. Is there anywhere else you use a best guess in the report?

**Mr Peters:** I wouldn't characterize it as a best guess. It's an estimate based upon an agreed-upon methodology with the ministry. Where we find that we cannot agree on methodology or agree on the estimate, and the ministry doesn't know, we will report that they don't know and we don't know. So this was the best effort available from the ministry and from us.

**Mr McDonald:** On page 210, you say there are 35 species that are not protected by regulation under this act. Is that the correct number; we have 35?

**Mr Peters:** The correct number, yes; there's an erratum on that page. Sorry, you had the page number?

**Mr McDonald:** It's 210.

**Mr Peters:** For some reason, mine is missing the little slip. But I think we are saying at the bottom of the page it's 35, but in the detailed text we use 31. Thirty-one is correct.

**Mr McDonald:** So 31 is the correct figure?

**Mr Peters:** Thirty-one is the correct figure.

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**The Vice-Chair:** Any further questions?

**Mr John Hastings (Etobicoke North):** I want to turn to the section dealing with the Ontario Tourism Marketing Partnership Corp and some of the stuff they're doing. I notice in the comments in your report that you're quite concerned about the ministry not getting enough of the licensed tourist operators on crown lands reporting and that the ministry's response to this is that one of the things they're trying to deal with is to remove the impediments to the licensing reporting. There's supposed to be 290 that didn't use the licensing provisions and didn't report in the last fiscal year. So I'm wondering, what are the specific impediments that the ministry views as being the blockers for not reporting or not renewing their licences? Page 266.

**Mr Peters:** I don't think offhand I can answer your question. I would have to do a little more research.

**Mr Hastings:** In your comments you say that the ministry—obviously some of your folks had conversations with tourism ministry staff regarding this item. In your non-black comments on the same page you say, "...ministry staff believed that most of these establishments were still operating." If that's so, what made the ministry make those comments to whoever in your office was holding discussions with them during this audit?

**Mr Peters:** I think what we're clearly relating is that they didn't know and we didn't go out of our way to go back out and find out what was happening there.

**Mr Hastings:** Ministry staff were saying?

**Mr Peters:** Ministry staff were telling us that they did not know why these establishments had not renewed their licences and they believed that they were still operating.

**Mr Hastings:** What made them believe that?

**Mr Peters:** That we don't know. We didn't go out and examine any establishments.

**Mr Hastings:** No, but what in their estimation made them think that these folks are still operating? Is this coming from MNR staff or other people?

**Mr Peters:** From tourism staff.

**Mr Hastings:** How did they know? This is what I'm most curious about. They believe they're still operating but they didn't renew their licences.

**Mr Peters:** Mr Hastings, I believe that's a very good question to ask the ministry, if you want to have them appear before the committee. We didn't challenge—they expressed that that was their belief.

**Mr Hastings:** Let's go to a wider basis. What are the specific things that are blocking—you see, you make your comment and then they're saying we've got to look at the whole 92 provincial statutes. I don't see how that connects per se to the absence of their not reporting or not filling in their licensing requirements to continue to operate. I assume one of the impediments is there's no on-line registration yet of these tourist operators in the ministry.

**Mr Peters:** I don't know whether it's necessarily information technology, but it's just, by whatever means, they do not report. The ministry does not make the effort, or we found no record that they made the effort, to follow up why they didn't report.

**Mr Hastings:** I guess this sounds too simplistic on my part, but couldn't there be other ways that these operators on crown lands could provide the information to the MNR regional offices?

**Mr Peters:** They could, but—

**Mr Hastings:** There doesn't seem to be much crossover between all these players that are supposed to be promoting tourism, to start with.

**Mr Peters:** That's really the point I was going to come to in my answer. There are 11 ministries with various mandates. Now, we are talking here specifically about operators on crown land, but there is northern development involved, the Ministry of Transportation is

involved, the Ministry of Agriculture and Food has rural responsibility—

**Mr Hastings:** Environment, MNR.

**Mr Peters:** I have the list somewhere.

**Mr Hastings:** Northern development, opportunity, innovation and enterprise or whatever that one is now called. What others?

**Mr Peters:** I can provide you with a list. I'm not sure whether I brought it with me for this particular hearing. No, I didn't. But there are definitely 11 and all have different roles. That's why ultimately we concluded that something has to happen in the government to coordinate all this effort.

**Mr Hastings:** I don't see in your report specific recommendations that bear down on that. Do I miss it, that there should be an overarching, more precise coordinating role of these 11 players and who is going to advance the tourism objectives of the province? That would be tourism itself, I assume.

**Mr Peters:** Hang on for a moment. I'm in the wrong report here.

**Mr Hastings:** You touch on it dealing with trying to get better integration of the ministry's and the partnership's databases that are not connected, which you point out. I would have thought you would have made that sort of the highlight of the whole thing.

**Mr Peters:** I thought we did, actually. I just can't put my finger on it at the moment.

Yes, actually we tried to get at it; for example, in the first one, where we say, "To help strengthen accountability and provide clear direction to fulfill its vision, the ministry should develop a strategic plan for the tourism program," the basic thing that we are concerned with—and it's right there. That was the nub of the problem. The ministry had changed its vision and actually its host ministry, I don't know, six times in five years, and they didn't have an overall vision. So we said, "Look, develop that vision."

One of the strategies we have in mind is certainly, if you look at the paragraph, that "... our Ministry will coordinate the development of the province's first comprehensive tourism strategy." That's what we were looking for, and that was not being developed. That strategy should certainly include the full coordination of the tourism mandate that was given, including the other 11 ministries.

**Mr Hastings:** Is it your understanding, then, or your office's understanding, because I assume you weren't at some of these discussions—you can't be at all of them—that some of these ministries will not be involved in tourism promotion, that they'll drop their role and have tourism do it?

**Mr Peters:** That depends on how they do the strategy. They couldn't drop it if it's legislated. They would have to go back to the Legislature for approval.

**Mr Hastings:** Like the MNR? They have a statutory, I presume, through the camp operators—

**Mr Peters:** Right. Most of them do it through either statute or regulation, that they're involved in it. So



probably part of the coordination should actually be a review of all legislation or regulation that mandates some tourism activity to determine whether it should reside there, should be coordinated, or should in fact be absorbed. So I think this is a massive undertaking that should be taken, though, because of the importance of the tourism industry in the province.

**Mr Hastings:** Have I got another—

**The Vice-Chair:** We have time for about one more, sure.

**Mr Hastings:** The other issue I'm most interested in is the tracking of the results of advertising by Ontario—or Ottawa, which doesn't seem to do any anyway. I don't even know why they're involved. But in terms of Ontario, and looking at other jurisdictions as to how they track the results of their advertising dollars, whether in kind or governmental, in terms of the model, I see that the existing operation is a return on investment, but Ottawa and other places seem to use a different model, if you look at pages 268 to 270.

**Mr Peters:** Mr Hastings, if you'll allow me, before I answer that question directly I would also like to refer you, with regard to your previous question, to the recommendation we made on pages 264 and 265, where we recommended the ministry should minimize the risk of overlap and duplication between its programs and services and those of other ministries and agencies, develop a process to collect financial information on the support provided, and develop a strategy. So that is the coordination one I couldn't lay my finger on, to answer your previous question.

As far as following up on advertising and marketing plans, we address that on 268, where we recommend that they "review the applicability to Ontario of marketing analysis research used in other jurisdictions." We found that other jurisdictions do quite a bit of work in this area, and we are asking the ministry, really, to look at best practices of other jurisdictions.

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**Mr Hastings:** Does this mean the ROI model is not the most effective one to track your results as to whether we're getting tourists in Ontario from other places in Canada or internationally?

**Mr Peters:** I would have to go back into the—

**Mr Hastings:** I take it that it isn't the best one.

**Mr Peters:** No. It had significant difficulties. But it was also in a stage of development at that particular time.

**Mr Hastings:** We'll have to pursue this again when we get a chance.

**Mr Peters:** Can I make a comment?

**The Vice-Chair:** Sure. We just have a couple more pieces of business to cover, but—

**Mr Peters:** Can I make a quick comment? Mr McDonald, I think there's one thing I should add to your question regarding the estimates we use. If we had found in our audit that the actual number is 5,900 and there are 178 serious offenders at large, we would have reported that number. We still consider that number large enough to be a reportable item for our process. If the minister had

cloaked that into the wording of providing an update on information, that he knew our information was now seven months old or whatever, I think that would have been a welcome addition to our report.

**The Vice-Chair:** What we'd like to do now is move on to item number 2. I want to thank Mr Peters, by the way, for the time we've had this morning to review this report, as well as the members around the table who have conducted the questioning in a reasonable manner.

It has been suggested that selection for consideration from the 2002 annual report be done by the subcommittee. The concern of the clerk is that we should at least today decide on what kind of time we need because next week, after Tuesday's subcommittee meeting their might not be enough time to go to the Legislature and get the permission for meeting during the intersession. So any comments on that? We've had two weeks in the past. That has kind of been the norm.

**Mrs McLeod:** How about the month of January?

**The Vice-Chair:** The month of January sounds good, yes. I'll take that as the first suggestion. We'll work from there.

**Mr Dunlop:** Two weeks sounds fair to me. What's the norm? Is it two weeks?

**The Vice-Chair:** It's really up to the committee.

**Mr Dunlop:** How would you do it? I'm just curious. When would those meetings actually take place?

**The Vice-Chair:** I suspect the subcommittee could then decide that, once the Legislature has given us the authority. It's a fairly extensive report, in my view of some of the ones I've seen since I've been here. If you felt like it was going to take more time, we could even ask for up to three weeks, but we wouldn't have to use it all. Again, the subcommittee could decide that.

**Clerk of the Committee (Ms Anne Stokes):** Just for information, last year the committee requested and received authority to sit for 12 days. That was to deal with report writing as well as two private members' bills. So, again, as an example that—

**The Vice-Chair:** By the way, we do have two reports to complete, which I'll also ask the committee to ask for authority to table with the clerk, as opposed to tabling it in the Legislature, if we finish those.

**Mrs McLeod:** Again, just for information, normally those 12 days or up to three weeks would be in the intersessional period. Typically, is it February into March? What's the timeline?

**The Vice-Chair:** Yes, usually; mid-February into March.

*Interjection.*

**Mrs McLeod:** No, it's not January. I was being very facetious.

**The Vice-Chair:** So 12 days would look at essentially three weeks, sitting four days of the week.

**Mr McDonald:** Can we do just two weeks?

**The Vice-Chair:** You can do whatever the committee decides. I'm suggesting that you might want to ask for up to 12 days like we did before. Whether the subcommittee or the committee in the end uses them all or not—again,

that's up to us. We don't have to sit. It just allows you the time to do the work we have to do.

**Mr McDonald:** So we're going to let the subcommittee decide on, or to pick the—

**The Vice-Chair:** When the dates are and those sorts of details. We have to ask for so much time. So why don't we ask for the 12 days that we asked for last year, and then the subcommittee decides how that up to 12 days will be used?

**Mrs McLeod:** I think that's a minimum, Mr Chair, given the extensiveness of this report.

**The Vice-Chair:** Shelley, any suggestion?

**Ms Martel:** We normally do three choices for each caucus, so right there we're eating up nine days if we go with that again, and we've then tried to start on the first of the reports from the first committee meeting so that those were not all backed up when the House came back. So not just last year but in a couple of previous years we've asked for at least that much time.

**The Vice-Chair:** So there's nine days right there.

**Mr Dunlop:** Let's ask for up to 12.

**The Vice-Chair:** Up to 12?

**Mr Hastings:** —to be decided by the subcommittee.

**The Vice-Chair:** No, we have to go to the Legislature and get the time set, Mr Hastings. The subcommittee can decide what—

**Mr Hastings:** The subcommittee meets Tuesday.

**The Vice-Chair:** The clerk is concerned that that would be a bit late. That's why we're deciding—

**Mr Hastings:** Go back and try Monday, after question period.

**The Vice-Chair:** It's the time to ask the House that she's after.

**Mr Hastings:** Move the subcommittee meeting up to Monday. Is that not enough time? By Thursday—

**The Vice-Chair:** Then the subcommittee has to have the report accepted by the committee, which would be next Thursday, which means it may be the last day of the House. That's why we're dealing with it today.

Twelve days, I've heard. Can I get a consensus on 12 days? that all right? I'm hearing whispering.

**Ms Martel:** I don't know what the problem is. What's the problem with 12?

**The Vice-Chair:** OK. We're going to ask for 12 days.

Secondly, I would ask for authority to table the reports with the Clerk in the intersession. Do I have that? Agreed.

I would suggest that there isn't much time left to do justice to the two draft reports we have before us, so if there's no further business, I'd adjourn the committee. Any further business?

**Ms Martel:** Are we going to deal with those two reports next week, then?

**The Vice-Chair:** Yes. They'll be next on the agenda.

Oh, dear. One more thing. This won't take long. Sorry. Item number 3 is the invitation to the biennial conference of the Australasian Council of Public Accounts Committees. I think every member has received the information on the costs and so forth. I received a package.

No? Do you want that information distributed? There is a cost breakdown.

OK, you are receiving the numbers on the cost to attend for registration, events and accommodation. Australian dollars are less than Canadian dollars, aren't they?

**Interjection:** Yes, they are.

**The Vice-Chair:** By about 10%, I'm told.

What's the wish of the committee on this issue, if anything?

**Mr Dunlop:** To make a decision.

**Mrs McLeod:** They'll think it's a great pre-election jaunt.

**Mr Dunlop:** It could be in the Star.

**Mr Hastings:** I move that the appropriate number of members go to the conference and that that be handled by the subcommittee.

**The Vice-Chair:** Does that sound OK, Anne?

**Clerk of the Committee:** I'm sorry. I didn't hear what he said.

**The Vice-Chair:** He has moved that the appropriate number of committee members attend the conference, and that would be decided by the subcommittee. Would that include any consideration for staff?

**Mr Hastings:** Obviously staff has gone to other—

**Mrs McLeod:** Could I ask a question? Obviously I'm subbing in to the committee, which is why I don't think I have a lot to say about this, but is it normal for the committee to send people to the Australasian public accounts conference, whatever it is?

**The Vice-Chair:** It's an invitation we receive. We're just dealing with the invitation.

**Mrs McLeod:** But is there any precedent for members to go?

**Mr Hastings:** Yes, there is. It has been done over the last number of years. As well, the Australian members, from both state and the Canberra governments, have attended the Canadian Council of Public Accounts Committees over the last four years, as I recall, in Halifax, St John's and another one in Toronto.

**Mrs McLeod:** I'm just curious about relevance and precedent.

**Ms Martel:** I think we do have to clarify that for the record. We normally send participants to the Canadian committee, which normally occurs in the summer. I don't think we've ever sent anyone to Australia, in my recollection from sitting on this committee for a long time now. So it is a bit of a change.

**The Vice-Chair:** I'm sure the subcommittee will take that into consideration.

Apparently we're running into the time problem again. If the subcommittee decides, it wouldn't be able to be approved by this committee until next Thursday. The committee could authorize the subcommittee to go to the House leaders to ask for authority. Shall we do that?

**Mr Gill:** Done.

**Mr McDonald:** Maybe we might want to ask the opinion of the Provincial Auditor.



**Mr Peters:** The last precedent that I'm aware of was about in 1990, when the committee members went to London, England.

**Mrs McLeod:** For the Australasian?

**Mr Peters:** No, for the European.

**Mrs McLeod:** I don't know if you're placing a vote, Mr Chair; I'd just like to register my opposition.

**Mr Peters:** The only point is the point Mr Hastings made. We have had the Australasian delegation at our annual meetings of the members of the Parliaments now for the last two or three years. I remember almost freezing to death with a member from the Australian Parliament on Great Slave Lake.

**The Vice-Chair:** Any other comments?

**Ms Martel:** I think we have probably two choices. People are obviously going to have to go back and talk to their own caucuses about this. You could deal with

sending the committee or you could deal with sending a representative from each caucus—or you could not go at all. So we probably have three choices that people are going to have to go back and talk to their individual caucuses about and get some direction.

**The Vice-Chair:** Direction for the subcommittee.

**Mr Gill:** Chair, we should keep in mind that we've become so paranoid about travelling anywhere. We have guests from all over the world all the time. I think we have to grow up and understand that there's a need sometimes to have the networking. I don't think we should be only worried about what somebody else might think. I think that's what we should think about.

**Mrs McLeod:** I shall leave you to think about it.

**The Vice-Chair:** Any other business? This committee stands adjourned before it completely disintegrates.

*The committee adjourned at 1153.*





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Mrs Lyn McLeod (Thunder Bay-Atikokan L)

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Mr Erik Peters, Provincial Auditor

Mr Walter Bordne, director,

Community, family and children's services and revenue audit portfolio

Mr Dave Levac (Brant L)

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Ms Anne Stokes

#### **Staff / Personnel**

Mr Ray McLellan, research officer,  
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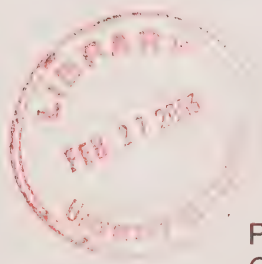
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## ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON  
PUBLIC ACCOUNTSCOMITÉ PERMANENT DES  
COMPTES PUBLICS

Monday 10 February 2003

Lundi 10 février 2003

*The committee met at 1116 in room 151, following a closed session.*

2002 ANNUAL REPORT,  
PROVINCIAL AUDITOR  
MINISTRY OF FINANCE

Consideration of section 3.02, corporations tax program.

**The Vice-Chair (Mr Bruce Crozier):** The session of the public accounts committee has begun. We are here this morning to consider section 3.02, the corporations tax, Ministry of Finance. I thank you for waiting for us. We're about 15 minutes behind our normal schedule, but I appreciate your attendance here today. For Hansard, if we could introduce ourselves, perhaps beginning with you, Mr Christie, and then we'll proceed. You then have up to 20 minutes, if you'd like to make any comments and then we'll go into a round of discussion.

**Dr Bob Christie:** Thank you, Mr Chair. I'm Bob Christie. I'm the Deputy Minister of Finance. To my left is Marion Crane, who is the assistant deputy minister of the tax revenue division. To Marion's left is Richard Gruchala, who is the director of the corporations tax branch, and to my right is Peter Spiro from our macro-economic analysis and policy branch.

As you noted, we're here today to follow up on the issues raised by the Provincial Auditor in the 2002 report on the corporate tax program. Just as part of the introduction, I'd like to give you a bit of a sketch of the division and its business. The tax revenue division is the largest division of the Ministry of Finance. It administers all of Ontario's tax programs, with the exception of the personal income tax, which is administered by the Canada Customs and Revenue Agency. It has seven branches and four regional tax offices.

The area that's most relevant for the current discussion is the corporations tax branch and our collections and compliance branch. The corporations tax branch has the main responsibility of administering and enforcing the corporations tax program, so they process returns, assess taxes, conduct field and desk audits—which I'll describe a little later—maintain the tax roll and taxpayer accounts and provide tax advisory services. The collections and compliance branch is responsible for collecting delinquent taxes, pursuing outstanding returns and taking progressive actions to collect outstanding returns and past-due taxes.

For the 2002 fiscal year, the corporations tax revenue was \$6.6 billion. As the Provincial Auditor's report noted, there has been significant growth in the corporations tax roll, which was about 460,000 corporations in 1996 and by now has grown to over 800,000 corporations, about a 75% increase in the size of the tax roll.

What I'd like to do now is go through the recommendations as they appear in the auditor's report and outline what the ministry is doing to address the recommendations the auditor had for us. I should note at this point that we would like to thank the auditor and his office for working with the staff on this and other audits. We have always found the recommendations of the Provincial Auditor's office to be very helpful in improving the administration of our tax programs, and this is certainly no exception.

With respect to the corporations tax roll, the auditor recommended that the ministry regularly compare the corporations tax roll with the corporations registered in the Ministry of Consumer and Business Services database and resolve any discrepancies on a timely basis. These two databases are put together for different reasons and you would expect there to be differences between the two. In the corporations tax database are those that may be liable for Ontario corporate taxes. So corporations that maintain a permanent establishment in Ontario, regardless of where they are incorporated, will fall under this heading. With respect to the Ministry of Consumer and Business Services, it requires all businesses that carry on business in Ontario, even if they don't have a permanent establishment here, to deal with them.

I think the other main difference is the role of non-profit corporations. The MCBS database will include non-profit corporations, but of course for the purposes of the corporations tax roll, those are not going to be liable for corporations tax so they don't form part of the corporations tax database.

The reconciliation of the data from these two sources is an important part of the administration of the corporations tax program. In October of last year, the ministry was able to compare the full corporations tax roll with that of MCBS and resolve any of the differences. The plan, as the auditor noted, is to do that on a regular basis. We are in the process of working with MCBS to put in place a regular routine on a semi-annual basis of doing a full reconciliation of the two databases.



The next comprehensive comparison is scheduled to take place this summer. In addition to that regular semi-annual comparison and reconciliation, we are receiving regularly, on a weekly basis, updates from MCBS in terms of new corporations added to the tax roll or corporations that have had their information on that roll change, and we update on that basis.

The auditor recommended that the ministry make better use of available tools to enforce compliance by defaulting corporations and assess whether additional resources and procedures warrant follow-up on outstanding returns. The number of corporations in default in filing a return has, as the auditor noted, increased from about one in five in 1996 to approximately one in two in 2002. There were several reasons and factors underlying this. As we noted, the corporations tax roll grew quite significantly, by about 75%. In 1997, the ministry found that the information in its corporations tax computer system was not a reliable source of information for cancelling corporate charters, so the process of cancelling charters was stopped at that time. That problem has since been fixed and the cancelling of corporate charters will be a regular feature of the administration of this program in the future. I'll provide more on that in a minute.

The other main reason is that in 2000, the ministry introduced a new annual filing requirement for corporations that are exempt from filing, which we refer to as EFF corporations. These are corporations that satisfy a list of criteria, particularly that they file a return with CCRA, that they have no Ontario taxable income payable, that they're not subject to the Ontario corporate minimum tax—and I think some others are noted in the auditor's report. Up until 2000, a corporation filed a declaration that they were exempt from filing once and they didn't have to re-file every year. In 2000, the ministry began to require that these corporations file for every year that they continue to be exempt from filing, and that certainly increased the number of returns or declarations that were due to the ministry.

There have been a number of measures taken to improve corporate tax compliance. In 1997, the ministry created an identification and compliance unit to address non-registrants and non-filers for most of our tax programs. The unit's initial and primary focus was on retail sales tax, as that was a program where we knew that, because it's a transactions-based tax, if a person is registered as a retail sales tax collector, then there's a very good reason to believe that they have collected tax and that there is money owed. The corporations tax as an income tax—and particularly, given the nature of corporations tax, there may be no taxable income so there may not be tax owing. In fact, there may be refunds owing. So the initial focus was on sales tax. The backlog on sales tax in terms of non-filing and non-registration has been worked through, and that is now current.

In January 2001, as the process of clearing up the RST backlog was nearing completion, the ministry began shifting some compliance resources in that unit to corporations tax. To date, we have followed up with

about 12,000 corporations. About half are now in compliance or have indicated that they never started business. Of the 355,000 corporations that have failed to file returns, we know that 71,000 have incorrect addresses. To date, we have traced more than 42,000 of the 71,000 and we'll clear the remaining inventory by the end of March of this year. This is a necessary step, obviously. Before we take more progressive actions with corporations, we have to make sure we know where they are.

In November 2002, the ministry implemented an automated process to request prior years' returns, when corporations had filed the current year's returns but had not filed for a previous year. Under that program, we've issued about 4,600 requests to corporations to file under that scheme.

In addition to these measures, we are putting in place a system to ensure that corporations that owe returns, or declarations in the case of the exempt-from-filing forms, either file what they're required by law to file with us or, in the limit, risk having their charters cancelled. The cancellation of charters is a fairly significant step to take. It means, among other things, that corporate assets are forfeited to the crown, it means a loss of limited liability insurance coverage and it means that if the corporation does have tax losses, it can't claim them any more.

By April 30 of this year we will have issued notices to all the corporations in default of filing either a return or an exempt-from-filing form. We will issue follow-up notices or initiate telephone contact with those that don't respond to the initial notice. We have the capacity under the Provincial Offences Act to prosecute directors of corporations who fail to file tax returns. These directors can be summoned to court and, on conviction, fined \$200 per day for each day the return is outstanding.

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As I noted, we could also cancel the corporation's charter for failure to file the required tax return. I also note that there are late filing penalties of up to 17% of the tax owing, where tax is due, and those fines escalate to 50% for repeat late filers.

As part of this program to eliminate this backlog of non-filers, we will be communicating with tax practitioners, accounting associations etc that do work and prepare taxes for corporations, to make them aware of what corporations need to be filing with us, and we will attempt to be sure that people can comply where they have not been aware of what they needed to do. We intend to make them aware so that they can comply voluntarily.

On tax return processing, the auditor's report recommended that returns be processed more quickly by following up on missing information and verifying information on a timely basis. We have taken steps to improve the follow-up process. As I noted, we've implemented an automated process to deal with returns that are missing one or more prior years' claims, and that will be done automatically. From now on, when a corporation files a return and there's a missing prior year, there will automatically be a request generated and a process started to follow up on that.



Where appropriate, where we have reason to believe that it will be effective, an arbitrary assessment of tax will be made if a response to the second letter isn't received within six weeks of mailing it. As I noted, we sent 4,300 letters in January and plan to send approximately the same number in each of February and March. On an ongoing basis, we will continue to use this process.

We're also improving processes for following up on other missing information. This information may include items from the taxpayer or verifications from regulatory bodies such as CCRA or others. We're now advising corporations on a more timely basis of the needed information and who it is needed from.

With respect to audit coverage, the auditor recommended that we take a number of steps, which I will describe. I would note here that if the committee wants to discuss particular audit coverage ratios for particular taxpayer classes, this is not information that we normally would disclose in a public forum such as this, because it can have an effect on voluntary compliance. So I would ask that if we do get into a discussion of those, we do so in a manner that will permit us to answer your questions without endangering voluntary compliance.

The auditor recommended that the ministry "conduct the planned number of discretionary desk audits ... and consider the advisability of auditing, based on assessed risk, more corporations with annual gross revenues of under \$500,000."

On the latter point, on smaller companies with this \$500,000 cut-off, we typically use the information provided by CCRA and the CCRA audit program, where they share the results of their processing of returns and of the audits they undertake of smaller firms in Ontario. The practice to date has been to rely on the CCRA audit pattern for those small firms in order to, among other things, make the best use of our resources and address the compliance burden with small business, who tell us, from time to time, that having auditors from both ourselves and from the federal government coming through in an uncoordinated way is something that is very difficult for them.

With respect to the desk audits, the ministry had underestimated the amount of time it was going to take to do these desk audits. Originally we had anticipated that 15 hours would be necessary to complete a desk audit. I think we found in practice that it took about 20 hours to do so. To address this experience, we have put in place a number of training initiatives to get the auditors who do these things up to speed more quickly. Staff were provided training and assigned easier files to begin with, which allowed them to become familiar with the corporation's tax system and the audit function in general.

With respect to discretionary field and desk audits, the auditor recommended that the ministry assess the risk of significant non-compliance for all corporations and select those with the highest risk of significant non-compliance and that we audit corporations from various industries to encourage broad-based voluntary compliance. The minis-

try is creating a new audit control and analysis unit in the corporations tax branch. This unit will ensure that the range of corporations selected for audit is sufficiently diverse. We will also be consulting with the Canada Customs and Revenue Agency—CCRA, the federal tax collector—with respect to their audit programs and audit criteria, both for small business, which is an area where we rely on them extensively—and the auditor recommended that we follow up with them and assess whether their audit program is sufficient to meet the standards of our tax programs, and we are in the process of doing that.

**The Vice-Chair:** Mr Christie, just to keep on schedule, you have about a minute.

**Dr Christie:** OK, no problem.

Just a couple of other areas. On the training needs, we have introduced a number of training programs, and we'll be looking at the training needs of our corporations tax staff. It's a very complex area and people need to keep up, so we have to ensure that the training is adequate.

With respect to the tax gap, which was noted in the auditor's report, the macroeconomic analysis and policy branch does quite a bit of work on that. Peter has done quite a bit of work on that. We are also following up with the Internal Revenue Service, which I think is using some audit information experimentally to address this. They're estimating the income tax gap using compliance and other data from a group of audited taxpayers to extract and extrapolate compliance patterns. This is still in an experimental stage at the IRS, but we're going to be monitoring this very closely in determining if we can usefully employ it in Ontario. With that, I will conclude.

**The Vice-Chair:** Thank you, Mr Christie. What we propose, and what has been agreed to previously, is that we'll now have a round of questioning, where each caucus can have up to 20 minutes. I'm suggesting as well that we go through the first round, which will take us till about 12:30 or 12:40, and then we'll decide on where we proceed from there. To begin with, we'll go to Mr Patten of the Liberal caucus.

**Mr Richard Patten (Ottawa Centre):** Good morning.

**Dr Christie:** Good morning.

**Mr Patten:** Mr Christie, I see in a press release and a news article that there are a number of sources of action that have been taken recently—new, improved stringent approaches that are now being considered or being put in place. But just to get a handle on the overall situation, the number of outstanding accounts is really a cumulative number, is it not? In other words, we have more companies that have not filed their income tax, and if that goes back, for example, a couple of years, then they're still on file and considered delinquent, it seems to me.

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**Dr Christie:** That's correct.

**Mr Patten:** I gather the process, as I understood you this morning, is really saying, "Look, we have to get a handle on where this problem is." There are those who perhaps are no longer in business. There are those who may have changed addresses, for whatever reason, or re-



incorporated. There are those who may have a new name, whatever. In other words, let's find out what that number is, number one.

I gather it's really a handful of the bigger corporations that have not filed, is that correct?

**Dr Christie:** I'll ask the experts here.

**Mr Patten:** Over \$500,000.

**Dr Christie:** I'm not aware of what information we have on size.

**Mr Patten:** Or over \$1 million, I guess.

**Mr Richard Gruchala:** In terms of the corporations that are in default of filing, we expect that most of them will be in the very small range. We have various strata for corporations, and certainly the expectation is that most of them would be in that range of under half a million dollars of gross revenue.

**Mr Patten:** So that's where the shortfall by and large is. And of course you have another mechanism that looks at what has been filed. There's a review, and if you see something out of the ordinary, then you'll want to follow that up. That you will do, and you may or may not discover something in there relative to the taxes to be paid.

In terms of the smaller group, we use the term "voluntary." We had some discussion among ourselves related to that term. In a sense, it is a legal requirement, and therefore it's against the law not to file if you are active, as it is for personal income tax, it seems to me. So this voluntary business is somewhat a misnomer, in my opinion, in that there is an obligation. Obviously, with the growth of this pattern of some non-compliance, then there's something that is not. You've identified a few things you're going to do. Number one, you're going to make contact with them and see if there is an existing entity. Number two, if there is, then you want some response to your request. So if there's a live body there, presumably now you're on track and some issuance or resubmission will take place; if they don't, then presumably you send someone in or you take—what happens if someone continues to ignore it but you know there is an active business going on?

**Dr Christie:** There are a couple of things we can do, as I noted, if we know it to be an active business and if, notwithstanding several attempts to contact them and give them the opportunity to do what you correctly note they are required to do, neither a return nor a declaration is forthcoming. They may be active but have no taxable income, in which case they would have to file a declaration saying that, which itself would be auditable. If we have returns from them for other years, we could arbitrarily make an assessment against them. Depending on the particulars of the case, we have the option of pursuing the directors under the Provincial Offences Act. We can also cancel the charter. Depending on the specifics of the case, certainly one or more of those methods would be pursued in going after and encouraging a corporation to comply in that circumstance.

**Mr Patten:** The ones that were determined by the auditor not to have filed would include—what's the term we use—the EFFs?

**Dr Christie:** The exempt from filing, yes.

**Mr Patten:** They're exempt but they still have to file.

**Dr Christie:** They have to file a declaration that says they continue to be exempt from filing, that they meet the characteristics of an exempt-from-filing corporation.

**Mr Patten:** But if they didn't file, are they in that group?

**Dr Christie:** If they don't file the form or the declaration, then they are in default of filing. They are still required to file to say that they have this status, and if they don't, they are in default of filing. If they were to file, they might well continue to be exempt, but because they haven't filed, we don't know that and we can't consider them exempt.

**Mr Patten:** How many are we talking about here?

**Ms Marion Crane:** If I could just clarify, further to what Dr Christie has said, we have done samples of certain corporations that have not filed, and what we find is that they break down into one third, one third, one third categories.

One third are corporations that are no longer in business, never started or are insolvent. For example, when a corporation intends to do business in Ontario, they have to register with MCBS, the Ministry of Consumer and Business Services. However, they may never do business in Ontario. Our studies show that one third of the corporations fall into that category.

One third, as Dr Christie has explained, are exempt from filing, but they haven't filed the piece of paper with us to show that they are exempt from filing and haven't met all the other requirements.

One third, as we are finding out, do owe us a corporate tax return, and they may or may not owe us tax. A corporation pays its taxes through instalment payments throughout the year, so we can have corporations that have never filed a return—I shouldn't say never, but that have not filed a return, yet have made the instalment payments that they should have. So not having filed a return doesn't necessarily mean there is tax owing.

That's what our studies have shown us to date.

**Mr Patten:** OK. By the time you whittle all this down, the overall question that I think you face is the adequacy of getting at the data, information flow from the feds that is timely, accurate and pertinent to you, and your ability to follow up on your indicators of where something may go wrong. Are we now on the ball to really do this? I think some of your quick action recently says, no, we can do more.

You had some cutbacks from finance. Has that affected any of this in terms of being able to monitor and to be on top of the filings, or the lack thereof?

**Dr Christie:** In the tax administration area, in fact, we have certainly added resources in the past several years, primarily on the audit side. There have been a couple of initiatives to get at underground economy activity—again, as I say, primarily through audit. The growth in the number of corporations, together with the requirement to file this additional piece of paper, caused a real backlog to emerge here over the last couple of years. There had



been resources put in place to deal with non-filers and compliance, but we had not put in place resources of the magnitude that would have been required to deal with this as it arose. They were initially devoted to retail sales tax, where—and Marion will have the exact number—we recovered under that part of the program over \$120 million, I think—

*Interjection.*

**Dr Christie:** —\$126 million in taxes that had been collected but not remitted to the province. So when the auditor correctly pointed out how this backlog had developed, we responded by putting more resources into place to deal with it. We've worked through the retail sales tax backlog now. We think that hopefully by the end of the year we will have worked through most of this corporation's tax backlog, although it will take a while because following up on hundreds of thousands of addresses and corporate names etc is quite a complicated process. But we hope to have that by and large cleared up and at least have much more currency of filing within, I think, a year.

We have made some systems changes. Once we get that backlog caught up, the systems changes should allow us to stay current. But I think our experience in a number of these areas has been that when you get behind, even if you make systems changes, it's very difficult to work off the backlog unless you put in extra resources, which is what we're doing.

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**Mr Patten:** Number one, do you have the horses, and number two, do you have the confidence in your system now to be able to tag this in a better fashion as we go along?

**Dr Christie:** Perhaps I'll ask the experts on that, because I couldn't assess the system.

**Ms Crane:** Yes, we are making the systems changes that will enable us to issue the dunning letters on a regular basis, and cancel the charters. We have resources in place to deal with the initial sending out of all the notifications that we'll be sending out in April, the over 300,000 notices that the Provincial Auditor noted in his report. We'll also be asking for some additional temporary resources to help us work through this backlog. We're also putting procedures in place along with the systems changes to make sure that we follow up on a timely basis so that we don't get into this situation in the future.

**Mr Patten:** In your presentation, on page 12, Deputy, you talked about why there are so many defaults, and one of the items you identified was that the charter cancellations had stopped due to the lack of reliability of the system's information. I'd like an answer on that, but I'd like to ask you also—on page 16, where you say what the current status of the action plan is, you've got "Cancel corporate charters." So one is saying you dropped it and the other says—does that mean you're going back to doing it again?

**Ms Crane:** If I could just clarify that, in the previous process, there were some problems with the way the

charter cancellation was working. In fact, there were errors in charters being cancelled where they should not have been and that process was stopped. The whole charter cancellation process has been brought up to date and the system has been rectified to deal with that problem. We actually have some corporations now that are in the process and we'll be cancelling their charter.

**Mr Patten:** Could you elaborate a little bit on that? Is that a system totally in provincial hands or is it information you have to work out with the federal agency.

**Ms Crane:** It's in provincial hands. The charter cancellation process is between the Ministry of Finance and the Ministry of Consumer and Business Services. What actually happens is we send a notice out when all of our other methods have failed—our attempts to contact them by letter, by telephone—and we've gotten no response and they've been given adequate time periods in order to respond. We mail a notice to the defaulting corporation advising them we're going to cancel their charter within 30 days. If we don't have the response in 30 days, then what happens is the Ministry of Finance sends a letter to the corporation on behalf of the Ministry of Consumer and Business Services saying that we'll be cancelling their charter in 90 days. What actually happens is MCBS has the corporation's name published in the Ontario Gazette as a charter pending cancellation and then, if there is no response in the 90 days, the charter is cancelled.

**Mr Patten:** I see a lot of advertising about health. Maybe this is something the department can do, but has the ministry considered an educational—notifying people about this? It doesn't have to be TV, but it could be. There was some question in the discussion about the sophistication of filing and the auditor pointed out that people can actually do their tax returns on-line. I think their estimate was that it's about 10%. Is that growing? How is that encouraged? Most businesses have computers, it would seem to me, and probably can do that. Is that growing? Is it encouraged? How do companies learn about this etc?

**Ms Crane:** In terms of the communication, we have a comprehensive communication plan that will involve working with associations that deal with corporations, like our tax practitioner forms and the tax publishers to make corporations aware. We have a number of ongoing forms in the Ministry of Finance that we use to make corporations aware of their responsibilities. So we have a fairly intense communication program we're going to do.

You're speaking to making it easier for taxpayers to comply with the requirements; I think your other question was directed to that. We're continually looking at that: are there ways that we can simplify the process or streamline the process? Certainly education is a part of this process to make corporations aware that it is an obligation of theirs to file returns or declarations and that if they do not, there are serious consequences for not doing so.

**Mr Patten:** There's been some increase in the resources for the audit division. What about the enforcement side?



**Ms Crane:** In terms of the processing of all of this, we have some additional temporary resources. We'll be asking for some additional resources to help us work through this backlog. We realize that we have to have ongoing resources as well to deal with this non-filer issue because, as you can well imagine, there are corporations every month that go into a non-filing status.

**Mr Patten:** I forget where my reference was, but I believe the ministry had said it's estimated that by the end of the year a hundred and some-odd million dollars would be recovered. Was that correct?

**Ms Crane:** Actually, that figure was part of our business plan submission, and the year that was supposed to happen was 2004-05. We're hoping to collect those dollars by that time, by 2004-05, by the end of that fiscal year.

**Mr Patten:** According to Murray Campbell, and the prevailing winds have it, we're still talking about defaults in the neighbourhood of over \$1 billion, maybe \$2 billion. Do you agree with that?

**Ms Crane:** You're talking about the dollars that are owing?

**Mr Patten:** Yes.

**Ms Crane:** Our estimate of the taxes owing, based on various studies that we've done, is around \$115 million, which the auditor has quoted in his report. That's based on the samples that we had done in 1998 and again recently. As I mentioned before, these are a lot of the smaller corporations. We have audit processes in place. Our larger corporations are audited 100%, so the ministry estimate is \$115 million.

**Mr Patten:** So there's a big gap there.

**The Vice-Chair:** Mr Patten, you have time for about one more question.

**Mr Patten:** I'll stop there, then. I'll pursue it later.

**The Vice-Chair:** We move on to Mr Christopherson.

**Mr David Christopherson (Hamilton West):** Bob, staff, thank you very much. I'm actually kind of tickled that I began in 1990 working with the Ministry of Finance people and I go out dealing with you, albeit on the other side of the fence. It just makes for a nice, well-rounded experience. Hopefully we'll all feel the same way at the end of this.

I want to pick up a bit where Mr Patten was on the charter cancellations for corporations. I understand that took place in 1997. It just seems rather curious that that's within a few months of when the numbers started to take off in terms of filings and other things. It would seem that a message went out, "You don't need to worry about it as much. The watchdogs aren't going to be there, so don't get worried about it."

I wanted to ask what you thought was going to happen when you stopped cancelling charters, and did you replace that with any other action in terms of the message that's being sent out?

**Ms Crane:** We know that charter cancellation is a process that has to be there and we know that because of the various issues with charter cancellation we didn't have any alternative, other than to do what we did. We

recognized that we had to get charter cancellation up and running again and we have that process in place now. We were following up on a selective basis with those corporations that we knew there was a real problem with. We weren't doing the extensive follow-up that we should be. I think there were a number of factors. None of them take away from the fact that we should have had that charter cancellation up and running sooner than we did.

We recognize also, as part of this going-forward plan, that the communication of a corporation's obligation to file and the communication that charters will be cancelled is certainly an effective deterrent and one that we need to use and we need to publicize as well.

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**Mr Christopherson:** Did other provinces do the same thing?

**Ms Crane:** I'm not aware of what other provinces did.

**Mr Christopherson:** So the biggest province in the country had a problem with the reliability of their information and therefore is arguably making bad decisions, but every other province doesn't have this problem?

**Ms Crane:** I'm not aware of what's in place in other provinces.

**Mr Christopherson:** Half a decade is a long time, and I realize that you just acknowledged that's a long time. But that's not just, "Sorry, we meant to do it in the spring and now it's the fall." We're talking half a decade. One of the strongest tools that you had, you completely removed—not you, but the political masters removed that from the tool box, if you will, and then took half a decade to get it back in.

**Dr Christie:** My understanding of what happened with that process, Mr Christopherson, was that it was found that charters were being cancelled where they shouldn't be cancelled, that corporations that had been complying with all the things that they were supposed to be complying with were, because of problems in the system, having their charters cancelled.

Obviously it's a very significant act to cancel someone's charter, and until this could be addressed in such a way as to have a lot more confidence that when this action was being taken it was the result of a series of progressive, documented steps that one could rely on in terms of saying that was the appropriate thing to do—as Marion has indicated, it should have been brought back sooner. The system part was fixed. There were resources put into compliance and the like, but their initial efforts, as I noted, were focused on retail sales tax. It's only over the last 18 months or so that they've begun to shift attention to corporations tax, to the extent that I think 12,000 of this group—which is a very small number—have been identified and worked through. There is a body of those that will go off to have their charters cancelled.

In order to use that very potent tool, I think the desire was to make sure the appropriate due diligence had been done in using it, which is the system that we're putting in place now, to the extent that we're not going to rely on a computer system to do it. The computer system will identify who needs to be pursued, but before action is



taken there will be a human being who looks at it and makes sure the proper action has been undertaken.

**Mr Christopherson:** I don't think anybody questions the importance of it and the fact that you see it as important. I'm not going after you for anything here, but I just have to say that I find it rather curious that it would take half a decade for a government to direct their staff to get back in place one of the strongest tools they have to force corporations to follow the law. Heaven knows they've moved heaven and earth to force everybody else to comply with the law, to the point where they've been ruled by the Supreme Court of Canada in many cases to have exceeded the Constitution in their enthusiasm to go after everybody else. So I just find it curious.

I would like to move on to the issue of the number of planned discretionary audits. Mr Peters recommended that you not only get up to speed in terms of the number of audits that you were planning to do, but that you consider doing more. When I look to page 20 of your presentation, I see three points:

"Production standards have been revised.

"Assisted by CCRA audit coverage.

"Discussions are ongoing with CCRA to assess the use of their small business audit program."

That's fine and dandy, but it doesn't answer the direct question, which is, have you been directed to meet the number of discretionary audits that have been planned, and how are you responding to the auditor's request that you increase that number?

**Mr Gruchala:** In terms of the auditor's report, the discretionary desk audit function was re-established, if you will, in the program as a result of our tax integrity program initiative.

**Mr Christopherson:** Sorry. Could you speak up, sir?

**Mr Gruchala:** Our tax integrity initiative program was restarted in 1998, or the second phase of it, so the discretionary audit resources were added as part of the TIP 2 initiative, as we refer to it. The function was re-established, and our initial estimates were that it would take about 15 hours per file to tackle these particular files, which is at the lower end of the gross revenue strata for corporations. We're talking corporations with gross revenue between half a million dollars and \$7 million of gross revenue. So that was essentially our population that we were dealing with.

In dealing with that population, as I said, we thought 15 hours would be sufficient. Given the fact that it was a new function established in the Ottawa and London offices and that we had a lot of new staff, it did take longer for those staff to learn how to work those files. We found that when we took records of how long it took, a new protocol, if you will, of 20 hours per file was more appropriate than was the 15 hours per file. That's why we had an audit coverage that fell short of what we had planned for the particular year the auditor had mentioned.

**Mr Christopherson:** OK, but that only talks about how we got to the point where the auditor felt it was necessary to make the recommendation. My question was, is the ministry going to now meet the number of

discretionary audits that you planned, and what is your response to the auditor's recommendation that you do more?

**Mr Gruchala:** In terms of meeting the targets, yes, we will be meeting the targets for discretionary desk audits.

In terms of more, we're always looking at situations in terms of our coverage and our information. With regard to the smaller end of the strata, again, as the auditor noted, we are dealing with the Canada Customs and Revenue Agency in terms of their audit coverage for these smaller corporations as well. We're certainly working with them closely to see what results they get and compare those to our results and look at it on an ongoing basis.

**Mr Christopherson:** I've got to tell you, that doesn't sound real enthusiastic. It seems to me it would have been better to hear, "Absolutely, we're going to meet the number that was planned, as the auditor recommended, and here's what we're going to do to meet the auditor's recommendation that we do even more." I'm not hearing that.

If I can, it has also been pointed out to us that the auditor pointed out that the risk-based point system that you used to have was replaced by senior auditors randomly selecting groups of corporations etc. The auditor had concerns about this new approach that you've got. What is your response to his concerns about that?

**Dr Christie:** One of the things we're doing, as I noted in response to the auditor's report, is looking at all of our audit procedures with respect to the number of audits. That was particularly an issue with respect to the smaller businesses, where we rely entirely on CCRA. As I indicated, we'll be looking at what CCRA is doing to make sure that is in fact adequate. If it's not adequate, then we'll make changes to do that ourselves.

On the risk-based assessment, we are taking actions on that as well, but I'll ask Marion or Richard to amplify on the actions.

**Mr Christopherson:** It's OK. I don't have a lot of time. I've got a number of issues I want to go to. I hear you on that. I think you're doing what you need to do. I'm not satisfied that the political masters have given the kind of direction they should to say, "This is a priority. We're going to do it." That could be done just as clearly as the news release today that went out on the one thing that captured a lot of headlines, and everything seems to be just sort of drifting along.

I would like to now turn to your page 32, where we talk about the tax gap. In that context, again, the auditor had raised concerns about the ministry no longer doing the same studies. Correct me if I'm wrong, but branch studies on the underground economy have not been conducted in recent years. We had a chat in the private session about what's going on. Why did they stop, and have you started doing them again?

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**Mr Peter Spiro:** It's not a matter of starting and stopping, Mr Christopherson. Early in the 1990s we



happened to do some studies, and they were very much at the macroeconomic level, so they wouldn't get at the issue of corporations tax per se; and it was at the Canadian level rather than Ontarian. There are a variety of ways to study the underground economy, but the main tool that's used by economists, and what we used, is looking at the volume of cash in circulation, because people who seek to evade taxes will, for example, under-report their income on their tax returns. The way they can guard themselves in the event that they're audited is to use cash because it doesn't leave a record. Looking at the volume of cash in circulation, economists can relate that to the overall reported GDP in the country, and to the extent that there are discrepancies, that gives a clue as to the size and growth of the overall underground economy. That was the kind of thing that was especially relevant early in the 1990s, when it appeared that the introduction of the GST had led to increased underground economy activity. So we were quite interested in that at the time, and that methodology was appropriate for that particular task.

In terms of the specific issue at hand with respect to the corporations, Mr Christie alluded to, for example, the IRS studies. That's something we've relied on in the past. Of course, the underground economy is very difficult to measure—it's extremely difficult to get indicators of it—so we do look at research from around the world, try to look at what research is available. The IRS in the United States at one time used to do large numbers of random sampling-type audits where they would audit corporations and businesses completely at random to see how much under-reporting of income they found, and from that they would extrapolate to the whole population to get an estimate. They've abandoned that particular approach recently, partly because it was very expensive, partly because it was very intrusive; it's quite traumatic for a taxpayer, who is in all probability completely innocent, to be subjected to an audit merely for this scientific curiosity, to get a sense of the overall amount of evasion.

They are now experimenting with a different methodology where they take the companies that have specifically been audited because they were brought up for various reasons—they were suspicious and they audited them—and try to use a statistical technique to look at the factors that characterized these corporations that have been audited and to relate those to the characteristics of other unaudited corporations, and from that try to fit them on a curve and deduce the probability or extent of evasion in other parts of the economy. The types of under-reporting and so on vary greatly.

In the underground economy literature there are two categories: what are referred to as the ghosts—that is, businesses that are completely underground and never file a return, never register their existence; and what's probably the most prevalent form of underground economy activity, businesses that do file returns, do pay tax but lie about the amount of revenue that have, so they under-report their income. It's the two aspects of that. So, again, in terms of the underground economy literature,

this phenomenon of non-filing doesn't really seem to fit into it, because presumably someone who wants to be completely underground doesn't register as a corporation in the first place.

**Mr Christopherson:** I do know from my time in the Solicitor General ministry that the biggest deterrent to crime is the possibility of getting caught.

*Interruption.*

**The Vice-Chair:** Someone's playing silly. We'd ask that the cellphones please be either muted or turned off. We don't know where it's coming from. We should proceed, though. There.

**Mr Christopherson:** Great. I'm glad it wasn't a ticking sound.

We know that the possibility of getting caught is the biggest deterrence there is, so that's why there's a big concern here about removing some of these major tools. But I want to move on a bit now because my time is running out.

In terms of the training, the auditor raised that as a specific concern. He used—and I don't pretend to understand all the details of it, which I think was his point—transfer pricing as an example of things that are very complex and require a high level of skill and understanding. You made mention on page 28 of the things you've done. Have you got new money for training? And if you don't have new money—well, let me ask you that question first: did you get new money for training?

**Dr Christie:** I'm not aware that we had established a specific new money line for training. Training is part of what we are supposed to be doing on an ongoing basis, and one of the things we're looking at in response to the auditor's recommendation is being more specific about the amount we spend on training and segregating the amount we spend on training so it can't be used for anything else; it must be used for training. Those are some of the things that we are looking at doing. It's clearly an area, as we noted, with respect to the desk audits. If the staff aren't well trained, it's going to take them longer and we're going to have more trouble, so we do want to get the training up to the best level we can. I know Marion has taken some initiatives in the division to deal with that and I'll ask her to expand—

**Mr Christopherson:** No, it's OK. I don't want to get into it. I understand you've done some. Again, I'm not hearing a whole lot of enthusiasm where you can say, "Yes, the minister told us that training's a priority. We've got X number of dollars. We're going to get on top of this and get it done." I'm not hearing that. What I'm hearing is that you're taking action, you've done what you can. I understand that, but without telling me you've got new resources, at best you're attempting to deal with the inadequacies raised by the auditor but you've got to take them from somewhere else. Because if you've only got a limited number of training dollars and you beef them up within that area, you don't add any money, somewhere training's not happening and all we're doing is creating a problem this committee will be looking at down the road.



I'm disappointed to hear that there wasn't new money put forward for training. I mean, these things aren't that complex in terms of dealing with the auditor's responses. A lot of them require political determination, new money and direction. I know your role here—I know it better than most—but I'm not hearing a reflection that the minister and ministers gave you the political direction that would satisfy us on behalf of the public, and this is another one.

I think my time is probably—

**The Vice-Chair:** Your time is within 20 seconds.

**Mr Christopherson:** To be fair to staff, I want to give them a chance to respond.

**The Vice-Chair:** Yes.

**Dr Christie:** In terms of direction on all of these matters, we consider ourselves to be under the direction to respond to the auditor's requests and recommendations and to do what is required to put this program on a sound and effectively administered basis. In terms of whether a specific training line is established or whether new money is explicitly devoted for training, if we need to do that, then as the deputy minister it's my job to make sure that gets done and to find the resources to do it.

This is the largest division of the ministry and we need to make sure that the resources in that division are effectively allocated, but we have, I think, in our responses to the auditor's report indicated that it's our intention to respond to and address his recommendations. We will do that. I can't tell you at this point exactly what the resource requirements would be. It's my job to make sure that I use those resources as effectively as possible, but it's our job to respond to and to implement the recommendations that he has put forward.

**Mr Christopherson:** Thanks very much, Bob, and everybody else. I appreciate it.

**The Vice-Chair:** We'll move to the government caucus.

**Mr AL McDonald (Nipissing):** It's nice to be here today. When I was driving down from North Bay they were calling for 15 to 30 centimetres of snow, so our ratings might be a little bit higher in northern Ontario than southern Ontario today.

I have just two questions, because Mr Hastings and Mr Galt have a few as well. The Provincial Auditor's responsibility is to look at all the different programs and to identify issues or challenges that governments will face, and he'll find situations for the next 100 years. That's his responsibility. Having said that, Mr Christie, I understand there's a problem. How long is it going to take to resolve this problem?

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**Dr Christie:** As I indicated, by the end of April we will have put in place the process of contacting all of these corporations in default with respect to that part of the auditor's recommendations. That's a process that will work its way through, obviously to the extent that it ends up getting into the audit stream. Before all those audits are resolved and the objections are heard etc, that could take certainly more than a year, but it's our intention to

have the backlog largely worked through and be in the process of dealing with it over the next year.

I'll ask Marion if she has any more specifics she'd like to add.

**Ms Crane:** Yes. With the resources we have on board and that we'll be bringing on board to deal with this, the majority of this backlog should be cleared up within two years. As Dr Christie notes, there are going to be audits and objections that may take a little longer than that, but the majority should be totally cleared up in two years. In addition, we'll have processes in place to make sure that we don't get into this situation again.

**Mr McDonald:** I think back in—was it 1996?—the ministry took steps to ensure that taxes owing to Ontario were collected. Did we hire more staff, and how many staff did we hire since 1996?

**Ms Crane:** Yes. Specifically in the corporations tax area, we hired 241 new audit staff, and they have brought in \$434 million of revenue. That specifically related to corporations tax. In total, we hired 752 new auditors and collectors and brought in \$1.4 billion in revenue.

**Mr McDonald:** Thank you, Chair. Maybe I can turn it over to Mr Galt.

**Hon Doug Galt (Minister without Portfolio):** Thanks for the presentation. I believe you've estimated roughly \$115 million owing. Is that for the past year or is that the grand total?

**Dr Christie:** That would be for the various years for which corporations have not filed their returns. As was noted and as the auditor noted, some corporations will be in default of filing for several years.

**Hon Mr Galt:** So it's cumulative.

**Dr Christie:** It's cumulative.

**Hon Mr Galt:** I think it's rather impressive in your presentation this morning to see that since 1996 or thereabouts, the number of corporations in Ontario has increased by 76%. That has to be a record number.

I'm curious: as this has evolved, you mentioned that one in five didn't file back in 1996 or 1997, and now it's one in two—or almost one in two, not quite. You've calculated roughly \$115 million that you believe is owing now. Going back, what might have been owing in 1996 or 1998? How was this built? Has it skyrocketed or has it just gradually worked its way out?

**Dr Christie:** I'll ask Marion to address the specific question. What I would note on the \$115 million is that the number is based on working through, taking a sample of—I think there were 700 accounts taken. They were all pursued to their end, and that's where the one third/one third/one third distinction that Marion noted came from. Based on the one third who might owe tax, the amount of tax they actually owed grossed up to the population, that's where the \$115 million comes from. In terms of how that has changed over time, I'll ask Marion to address that.

**Ms Crane:** I don't have the specific figures on how that has changed over time but I could get back to the committee. You've asked specifically about 1996 and



1998. I could get back to the committee with that, but I don't know offhand how that breaks down.

**Hon Mr Galt:** Basically it's extrapolated from a random sampling and grossed up from there.

**Ms Crane:** That's correct.

**Hon Mr Galt:** Mr Hastings, I see the Chair has just stepped over. Would you like to ask a question?

**Mr John Hastings (Etobicoke North):** Folks, could you outline for us—I think the auditor said that about 10% of your people do electronic filing. What I would like to know is, what is the ministry's strategy or plan for accelerating that in terms of targets? What I'd like to also know is, of the 10% of people who file electronically, which industries or sectors are doing that? How many companies out of your 385,000, or whatever the number is, are not reporting and how many companies of the 10% does that represent that are reporting? Overall, why is it that there doesn't seem to be a more aggressive educational approach to getting more small business enterprises to file electronically if it is convenient?

**Mr Gruchala:** With regard to the filing, what we have is, of the corporations that file with us, in excess of 90% file using software generated by private sector industry. The 90% that file off software-generated, I believe it's in the range of 50,000 or so corporations that use what we call the D-file method, which is the diskette filing method that has been in effect in Ontario since 1995. So less than 10% of our population file using the paper-generated that we send them or that is available on the Internet site.

With regard to what we're looking at down the road, we're looking at options in terms of further expansion through Internet filing down the road. The Canada Customs and Revenue Agency has a pilot going at this point in time which has just gotten off the ground for corporations in terms of Internet filing, to make it easier for corporations to file, and Ontario will be looking at the same option down the road in terms of Internet filing for corporations as well.

**Mr Hastings:** Down the road how far? Two years?

**Mr Gruchala:** Within the next 12 months.

**Mr Hastings:** Let me get it straight, then. The electronic filing system that your ministry has isn't that good? It isn't that easy to file electronically, especially for small enterprises, the ones we're talking about, between \$500,000 and \$7 million?

**Mr Gruchala:** The option we currently have is the D-file method, which was used generally by larger corporations when it was brought in. We also brought in the corporate minimum tax at about the same time. So essentially it was the larger corporations that made use of the D-filing initially. But with 50,000 corporations filing with us, the D-file method now encompasses a much larger group than the large corporations. A number of small entities are also using the D-file method with us. Certainly, I think we're always looking at making it easier, and the potential with Internet filing is to make it that much easier for corporations to file with us.

**Mr Hastings:** So it's easier for the large corporations, like Alcan and what have you, to file electronically than it is for the small ones? Is that my understanding?

**Mr Gruchala:** More than 90% use software from software developers to prepare their returns. It's the transmission of the information from those returns—as I say, about 50,000 send us the diskette on which the information is contained. The balance prepare the paper and send us the paper. So the next step is to get the electronic transmission from computer to computer through Internet filing.

**Mr Hastings:** Are we going to be dependent, as a ministry, on CCRA to get your number of electronic filers increasing?

**Mr Gruchala:** No, not necessarily, because the Canada Customs and Revenue Agency is already undertaking a pilot at this point in time with a very select group of taxpayers. As I say, within the next 12 months we're looking at Internet filing as well. No, we wouldn't be dependent on the Canada Customs and Revenue Agency. My point was that they already have a pilot in place, and we'll be looking at it in the next 12 months as well.

**Mr Hastings:** How difficult is it for a small enterprise, say a restaurant that employs maybe 10 people, that might have gross revenues of about \$1.5 million? How easy or difficult is it for them to file electronically right now?

**Mr Gruchala:** We have a short form CT23 as well. The initiative was taken several years ago in terms of having a simplified method for filing corporations' tax returns for smaller business. Again, that is generally coming to us in paper-generated format. But in terms of the—

**Mr Hastings:** In the case of that example I gave you, they would have to file paper-wise, right?

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**Mr Gruchala:** No, they could diskette-file with us. The capability is there to run from software generated by software developers. Most still choose to print the paper and send us the paper.

**Mr Hastings:** So what plan or strategy—I guess I'll go back to my original question—do you have to increase participation rates of electronic filers in the small business sector?

**Mr Gruchala:** The next big phase would be Internet filing, to make it easier for corporations to file with us.

**Mr Hastings:** Independent from what Rev Can does.

**Mr Gruchala:** We could certainly learn from their experience, and perhaps partner with them on certain issues, but that would be the next phase, to go to Internet filing.

**Mr Hastings:** So could you leave with this committee, then, with Ray, the types of companies by sector and by size that are already filing electronically, whether through Internet or through the diskette approach?

**Mr Gruchala:** We certainly could. We have a wide range of corporations now that file with us on diskette. As I mentioned, we have about 50,000 corporations.

**Mr Hastings:** Could you supply some data, some profiles regarding the existing reportage?

**Ms Crane:** Yes, we can supply you with the information of who files right now using our D-file method, as Richard described it, the filing on diskette.

**Mr Hastings:** Are you folks satisfied with where you are in terms of electronic filing?

**Ms Crane:** I think we're always looking at how we can respond to what the taxpayers want, and it's always a balance of what we can do with the resources we have. There are a number of changes we will have to look at, our systems. We're always looking at what we can do to make it easier for taxpayers to file, and looking at electronic options is certainly the way we need to go in the future.

**Mr Hastings:** I submit that the premise that there's large avoidance is because of the reverse of what we generally hold—

*Interruption.*

**Mr Hastings:** Is this me again? No. It's not me this time.

**The Vice-Chair:** Apparently we have a mystery phone around here. I certainly wish we could find it.

Go ahead. I'm sorry.

**Mr Hastings:** I submit that your problem with the number of people not filing tax returns in the small business enterprise field is primarily because we're not making it sufficiently convenient, although your stats might tend to suggest a contradiction in that.

**Ms Crane:** As I mentioned earlier, we want to look at options, if there are ways that we can make it easier for taxpayers to file, and we've done things like develop shortened forms, but there's always more that we can do. Certainly the ministry can look at what other options there might be to aid taxpayers, especially the small corporations, as you mentioned, in being able to meet their obligations.

**Mr Hastings:** Maybe we need to have more co-operation between you folks and MCBS, when an enterprise sets up a company, and their formation for reporting.

**Ms Crane:** We do have good co-operation with them. We get weekly updates from them, and we do the twice-yearly synchronization of data, which the deputy mentioned. But I think in terms of filing options and are there other ways we can assist small corporations, we might want to look at working with CCRA on that front as well.

**Mr Hastings:** OK. Thank you.

**The Vice-Chair:** I've been polling the committee. Considering that it's now roughly 25 minutes to 1, it would appear as though the Liberal and NDP caucuses maybe have a couple of short follow-up questions, and then we can end this part of the committee hearing with the finance people and let them get on with their day. Then we would move to the discussion on the 407 and conclude that, and then all of us would be able to move on with the rest of our work for the day. Does that sound fine? OK.

Mr Patten, you had a question or two?

**Mr Patten:** Yes.

**The Vice-Chair:** Five minutes.

**Mr Patten:** I'm still on a follow-up to a question I asked before.

"The ministry closed approximately"—this is the auditor's report, page 65—"40,000 accounts in the integrated tax administration system," which was the older system, and that one was able to identify sort of the level of risk or various problems. But it states in the auditor's report that many of these accounts were still active and that they're still registered as active with the Ministry of Consumer and Business Services and that any of them might meet the requirements for filing a tax return, but they were shut off. That was just one question.

The other one was—and this may have been corrected by now—for corporations with annual gross revenues of under \$500,000, very few feel their desk audits were performed. But for corporations with annual gross revenues of over half a million dollars, the number of desk audits completed was only about half of the number planned. What would that planned number be, and why was it only half of the audits done at that time?

**Ms Crane:** I'll answer your question on the 40,000, and Richard will answer your question on the other one.

In terms of the accounts that were closed out in MCBS, the 40,000 accounts that the auditor noted could still owe us a return, in future that process will not be followed. What should have happened was that we should have gone through the charter cancellation. These are companies that we know are no longer in business or that we were not able to contact or collect taxes on. We closed them out on our system. The proper process should be and will be in the future that the corporation's charter is cancelled, so then they'll be taken out.

In terms of the desk audits, I'll let Richard answer that.

**Mr Gruchala:** In terms of the 2000-01 taxation period, I believe the auditor's report suggested we did 53% of the total which were planned for that particular year.

**Mr Patten:** Yes. So why not 100%?

**Mr Gruchala:** In that particular year, these were new functions that were re-established. The ministry used to do them many, many years ago and hadn't done them for quite some time. With our tax integrity program initiative in 1998, we restarted the discretionary desk audits, in two offices in particular. The staff were new. It took them longer to learn how to conduct these discretionary desk audits than we had planned. So there was a training period as well for these folks.

With regard to the production, when we put our plan together in 1998 for this, we also thought that approximately 15 hours per audit would be sufficient for these types of discretionary desk audits. In practice, it turned out that it was closer to 20 hours. So, in fact, the standard was set too low, in terms of the amount of time that would be required to adequately and in a quality manner produce these audits.



**Mr Patten:** So that's now history?

**Ms Crane:** Right.

**Mr Patten:** Roughly 50% of what was planned—are those targets a percentage of tax filers, or what? What would you plan on in a single year? For example, for this year, what would be your plan, how many of those audits?

**Dr Christie:** This begins to be in the area where precise—

**Mr Patten:** Just rough. I'm just talking about ballpark figures.

**Dr Christie:** It's typically established as a percentage of the filers. I prefer not to use the number for obvious reasons.

**Ms Crane:** It's a percentage which is consistent with what we do in all of our other statutes. So it's a percentage that we normally look at as being the target, which the Provincial Auditor also says we should look at, in terms of an audit coverage rate. As Richard mentioned earlier today, we will be meeting that target for 2003.

**Mr Patten:** I have one more—

**The Vice-Chair:** Quickly, OK? We've tried to limit this to five minutes.

**Mr Patten:** It had, "In August ... the ministry assigned one person to follow up with the units to which the returns had been assigned." These were ones particularly that were under review. I'm assuming that's old information and that you've probably added several or—how many to that particular unit? This is page 72 in the auditor's report.

**Mr Gruchala:** I believe I can speak to that. With regard to the one person, I believe it was August 2001 when we added one additional person to follow up on a more regular basis with some of the issues that were causing us delays in terms of processing returns. We haven't added any additional staff to that particular issue. We've changed our processes to ensure that taxpayers are advised on a more timely basis of the requirements to file. For example, with a number of cases with our tax credits administration, there is no tax due; there's a tax refund owing based on a tax credit claim. In fact, we rely on third party information coming from either the Canada Customs and Revenue Agency for R&D issues or from other organizations like the Ontario Media Development Corp in terms of certificates for film productions and the like. So we often wait for those organizations to send us the information before we can process the return. So in fact we've tightened up our process in terms of making sure taxpayers know what is required sooner.

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**Mr Patten:** This person wasn't just calculating; this person was a systems person, presumably to help straighten out where the problems were in the system and gaps and all that kind of thing.

**Mr Gruchala:** It was more of an analytical position, in terms of, "If we've taken this long, why did it take us so long? So what can we do to tighten up our processes?"

**Mr Patten:** OK, fair enough.

**Mr Christopherson:** Two areas; the last one's real easy and this one shouldn't be that difficult. The issue of the tax advisory unit and the amount of time it's taking: management has said it takes about 90 days to respond to a request. I don't see the auditor taking exception to that, but he has raised the concern that over the last 18 months some of these things have taken from six months to a year. In fact, when we look at the outstanding request log, we find out that there are some requests that go back as far as 1998. What's being done in order to bring this up to an acceptable turnaround time?

**Mr Gruchala:** In terms of our tax advisory area, we had a significant staffing problem. We had a vacancy rate not that long ago approaching 45%, so in fact we had a lot of staff vacancies.

**Mr Christopherson:** Why?

**Mr Gruchala:** There was an issue around the compensation level and other opportunities in the organization in an audit capacity. We were losing some of our—

**Mr Christopherson:** Sorry, can I just stop you for a second? You're saying that almost half the unit left? How many people are we talking about?

**Mr Gruchala:** We're talking in the range of about 22 folks.

**Mr Christopherson:** About 22 people. So nine or 10 of those people left, and you're saying it's because of compensation. That's a huge problem, isn't it?

**Mr Gruchala:** It certainly is, so we've addressed the issue in terms of staffing. We have started to staff up a number of the positions. We still have about four or five vacancies left at this point in time. So the positions are being filled.

**Mr Christopherson:** What's the longest that one has been open?

**Mr Gruchala:** Of the current positions?

**Mr Christopherson:** Yes.

**Mr Gruchala:** I would think over a year, perhaps a year and a half.

**Mr Christopherson:** A year, year and a half. That sounds to me like you're under some kind of expenditure constraint and you're staggering the replacements in order to meet constraints in other areas. That's what that sounds like. That's pretty shocking, I've got to tell you, to hear that for any particular unit within the Ministry of Finance, up to half the staff have left because of compensation issues, especially when this government is under criticism for not believing people should be paid what they're worth. And then to tell me that some of these positions are over a year in being filled tells me that the dollars are more important than the service that's provided by this unit.

**Ms Crane:** Yes, there was an issue. We've recognized that issue, and we've changed some of the compensation levels in that unit to be able to attract the level of staff to that area that we needed to attract—the appropriate people—because it was an issue in terms of compensation with the audit. It's also not just a compensation issue; it's the preference of people who have that background. A lot

of them would prefer to be auditing rather than doing the tax advisory role. You've noted that some of the rulings are outstanding for a long period of time. We have to remember that although these are not the time frames we would ideally like, we're dealing with the most complex corporate tax situations and they do take a long time to analyze. They're—

**Mr Christopherson:** Sorry, I don't mean to be rude. But I would suggest, then, that also means we're probably talking pretty significant dollars in terms of the outcome of the interpretation. If big corporations are putting a lot of effort and money on their side into high-priced help on their part to argue something, then it has to be worth their while. Therefore, it means a lot to the people of Ontario because, depending on how you rule, it determines whether there are millions of dollars coming into the provincial coffers or not. That would seem to me to be an area of high importance, rather than just some flunky little advisory group that answers complaint calls every now and then. Anyway, I'll let that sit. It's not a real satisfactory answer, I have to say.

The last part is real easy, Bob. The chart: because it's not colour—I assumed it was colour when it was first presented. It was interesting. I wasn't 100% sure what the corresponding figures were and I wondered if you'd just clarify that for me. That's page 7. Easiest question you're going to get all day.

**Dr Christie:** Not necessarily.

**Mr Christopherson:** I haven't done the follow-up yet. This one's the easiest, trust me.

**Dr Christie:** Peter, do you have the revenue numbers? I'm not sure—

**Mr Christopherson:** The 29% is the retail sales tax?

**Dr Christie:** You're interested in what the dollar numbers are?

**Mr Christopherson:** Yes. It's just that the shadings aren't clear enough. This was probably done in colour the first time around, and the shadings aren't clear enough for me to assign the pie segments.

**Dr Christie:** The bottom one, the 40%, is personal income tax. The next one around, the 29%, will be retail sales tax. The 14% is corporations tax, the 7% is employer health tax, and the 10% is field tobacco and other taxes. They are sort of in the order that the boxes are on the right-hand side. Sorry about the shading.

**Mr Christopherson:** No, no. I'm not suggesting anything underhanded here, Bob. You're far more clever than that, as you've proven today.

How much has that changed over the years in terms of the percentage of revenue for the people of Ontario that comes from corporate tax versus retail tax versus income tax?

**Dr Christie:** We could get you some historical information on that. The biggest determinant, the biggest thing that influences that, in my experience has been where we are in the business cycle. Corporations tax can be really variable because of some of the loss carry-backs and loss carry-forwards in the system. If you have a

couple of bad years of profit, it can affect your tax for some time to come, because of—

**Mr Christopherson:** True, but there have been structural changes; that's what I'm getting at. I think over time—and I am going to ask you for those numbers going back, even if you could do them for 10 years ago, 20 years ago, 30 years ago.

**Dr Christie:** That much? OK.

**Mr Christopherson:** They should be there.

**Dr Christie:** We can look for—

**Mr Christopherson:** Well, 20 years at least.

**Dr Christie:** Twenty years I'm sure we've got.

**Mr Christopherson:** We should have these charts in that time. I raise it because there's a belief, and I share it, that there has been a structural change in terms of an approach to where we derive the revenue to pay for health and education and environmental protection etc, that less and less is being paid on the corporate side and more and more is being paid on the income tax side and on the retail sales tax. If we take a look at what US President George Bush is proposing now, there's a massive shift being proposed there to go more and more structurally to consumption tax. So I wanted to get a sense of that.

**Dr Christie:** We can provide information on that.

**Mr Christopherson:** But that structurally has taken place to some degree. Is that not fair, Bob?

**Dr Christie:** Certainly in Canada overall, with the advent of the GST etc, there has been more relative emphasis on consumption taxes versus income taxes. In fact, that's the kind of advice we get from a lot of economists, who tell us that income taxes affect incentives and consumption taxes—

**Mr Christopherson:** Of course, consumption taxes are also the least progressive. That's the difficulty with that.

**Dr Christie:** There are certainly distributional issues with all taxes.

**Mr Christopherson:** Right. Thank you again very much. I have concluded. Thank you, Chair.

**The Vice-Chair:** Thank you, Dr Christie, to you and your colleagues, for appearing this morning. We appreciate very much the time that you've spent with us. Best wishes for continued success in the future.

That concludes the consideration of section 3.02, corporations tax.

## HIGHWAY 407

**The Vice-Chair:** As I discussed before, if we move on and take care of the next order of business, then we'll be able to conclude our business for the day.

You would be aware that Mr Phillips has joined us. Mr Phillips wrote a letter to Mr Gerretsen, the Chair of the committee, asking that the public accounts committee review the contract to determine how the 407 users can be protected from constant and exorbitant toll increases. So the question is the 407 contract, and Mr Phillips, the



member for Scarborough-Agincourt, has written this letter to the committee.

We would ask that we do this: that Mr Phillips have a few comments, there may or may not be some comments from the auditor, you may have some questions, and the committee may have some questions of the auditor and/or Mr Phillips. Then we'll just see where it goes from there. How's that?

1250

**Mr Gerry Phillips (Scarborough-Agincourt):** I appreciate the opportunity to raise this issue with the committee. I'm sure everyone's familiar with the 407 and the background, but just to refresh our memories a little bit, so that I get some of the facts before the committee, the 407 was a highway what was sold to private interests, effective May 5, 1999. It's an extremely important economic engine for Ontario, but also for many people in the 905 area it's almost their only means of transportation. There are other roads, but they're quite congested, so it's extremely important to those people.

At the time of the sale, what was said was that there was a tolling agreement that—I don't know whether the committee members have a copy of this or not, Mr Chair.

**The Vice-Chair:** They had a copy. We have other copies of the letter.

**Mr Phillips:** What the release at the time of the sale said was, "Tolls can be adjusted by 2% per year plus inflation for the first 15 years, and thereafter, by inflation only. This would mean that tolls could increase by about three cents per kilometre over the first 15 years." In other words, after 15 years tolls could go up by perhaps a total of three cents a kilometre. In fact, what's happened is that there have been five toll increases since the road was sold on May 5, 1999. I'm speaking now about cars; trucks, by the way, are three times these rates. Car tolls in the real off-peak hours used to be four cents a kilometre; they're now, as of February 1, 2003, 12.1 cents a kilometre. They've gone from four cents to 12.1 cents. That's obviously an increase of about eight centres per kilometre. In other cases they've gone from seven cents to 12.1 cents, which is an increase of 5.1 cents per kilometre. And in the peak hours they've gone from 10 cents to 12.95 cents, not quite three cents. But it was supposed to be three cents after 15 years; it's now going from an eight-cent increase to a three-cent increase after less than four years.

My concern is that the owners of this highway have now said that they have the right to take tolls up without limit, provided a minimum amount of traffic is on the road. This has become, it appears, the most lucrative privately owned toll road in the world. It's one that toll road investors are just salivating to buy into. One of the owners is a company called SNC-Lavalin, and in their report they point out that, "The underlying value of the company's investment in Highway 407 was highlighted with the announcement of an indirect acquisition of interest by a third party. Based on this transaction value, the company's stake in Highway 407 corresponds to nearly four times its initial investment of \$175 million."

In other words, SNC-Lavalin put an initial equity investment of \$175 million into it; 30 months later it was worth four times that. The total equity investment for all the owners was \$700 million, and in 30 months that was worth \$2.8 billion.

There's an Australian company that has acquired an interest in it and they, in their charts, point out how lucrative it is and the return on investment is the highest they have.

My concern is that I believe the public, when this road was sold, had been led to believe that there was indeed going to be some control on how much the tolls could go up. That apparently is not the case. I spent—I guess it's fair to say "I"—two years trying to get something called a tolling agreement. I read a prospectus when the 407 corporation was raising money selling bonds, and the prospectus said—I'm paraphrasing here—if you want to totally understand this prospectus you must read the tolling agreement, copies of which are available for reading during normal business hours at the 407 corporation. Before you invested in the bonds, you had to read this tolling agreement. So I thought, "Well, the public probably has a right to see that, too," and I phoned the 407 corporation and said who I was and that I was coming out to read the tolling agreement. They said, "Well, you have to be a potential investor," and I said, "That's possible." A \$100,000 minimum investment; that's possible. "You need to have a broker." "I do have a broker." "But you have to sign a confidentiality agreement that you will never reveal anything that you've seen in the tolling agreement," which I thought was odd because the investors who are making the money on the road obviously had that information available to them before they invested, but the public that's paying the tolls weren't given it.

So I fought for two or two and a half years to get it. The freedom of information office actually was in court trying to get the information. The day before New Year's 2002, the 407 corporation announced they were taking the tolls up another 12% and they released the tolling agreement. My reading of it indicates that they basically can take the tolls up without limit.

The agreement, by the way, is a 99-year agreement. We're now approaching four years into it, so there's 95 years still to run. If you don't pay your tolls, you don't get your licence plate renewed. The 407 corporation—and it's the 407 corporation, not the government—is temporarily not enforcing that. But I suspect that it's only a matter of time before they start doing that.

So we're at an important point. We now have publicly the agreement, I think. It now appears that, contrary to what the public was told—ie, that there was some mechanism of controlling tolls—that's not the case. The owners say this is a gold mine. After 30 months, their equity investment is worth four times what they put in and is probably worth substantially more now. My hope would be that this committee, with the help of the Provincial Auditor, would take advantage of this opportunity to review the contract and see if we can find ways to build some protection in for the 407 users.

I go back to what we were told at the time of the sale, that there was apparently some mechanism planned. But, according to the owners, that mechanism is not particularly effective because they can essentially take the tolls up without limit. The sooner we do this, the better, because obviously these owners are selling off portions of their ownership at returns that reflect their feeling that they can take the tolls up without limit.

That's hopefully a fairly brief background. I'd obviously be happy to answer any questions, Mr Chair, but I would hope the committee would say, "Listen. This is a time for us to sit down, with the help of the Provincial Auditor, review the contract and see if we can find some ways to build in some protection for the 407 users"; at the very least, before any toll increases can go through, that there be some independent body that looks at it and determines whether in fact that is fair and reasonable.

1300

Just for people's information, if you drive from Markham over to the 403 and back every day, your tolls a few days ago were \$4,000 a year; they're \$4,500 a year now for a car, if you just drove that distance every working day. If you're in a truck, it's three times that rate. So it's an enormous cost. The toll increase that went through the other day is worth an extra \$50 million a year in tolls already.

So that's the background. I don't know how the committee would like to proceed. I'd be happy to put a motion forward if that would be appropriate, or do you want to just have a discussion first?

**The Vice-Chair:** You're free to put a motion forward at any time, but what I thought we would do is have some discussion, if there are any questions or comments, then we'll entertain any motions that come out of that. Questions or comments, anyone?

**Mr Christopherson:** Very briefly, obviously it's a major public concern. The western terminus is my community in Hamilton. I hear a lot about this. I won't repeat or make other arguments to support Mr Phillips at this point because I think it's rather self-evident, but I want to hear from the government members to get an indication whether or not there's a motion we can work on and as much as possible make it non-partisan in the public interest of what's going on here and how we can best protect the public, or whether we're going to get into a partisan thing where we raise issues on behalf of the public and the government just toes the line and shuts this down by virtue of using their majority. So I'd be very interested to hear where the government members are at.

**Mr McDonald:** If I could, and we appreciate Mr Phillips's letter, but I think the intent here is to politicize the whole committee with this issue dating back to 1999. I don't feel comfortable with that, given our role here as committee members. Obviously, the member opposite may well put a motion forward and we would consider it, but I want to get it on record that this committee is to review items and my feeling at this point is, dating back

to 1999, Mr Phillips is trying to politicize this whole process.

**The Vice-Chair:** What we're trying to do is get a consensus on a motion, if one is necessary. Otherwise, yes, there will be a motion. Mr Phillips, any comments?

**Mr Phillips:** I don't know where else to turn, Mr Chair. The contract is a matter for this committee, I think. It dates back to 1999, but it has actually taken me until just five weeks ago, through freedom of information, to get access to it. It isn't as if I've been sitting around waiting for four years to take action. I've been pursuing it since that time. If this is not the appropriate committee, I don't know what committee would be the appropriate committee to look into it.

**Mr Christopherson:** I have to say the response from the government isn't very optimistic. That's probably the worst-case scenario in terms of what I'd hoped to hear. If it's appropriate, may I ask, what the Provincial Auditor thinks? Mr Peters, what are your thoughts on this?

**Mr Peters:** It's rather delicate for me to comment at this particular stage. It's a difficult motion to comment on, largely from the perspective that I would like to have more of an idea from the committee as to what the actual outcome would be of the result of our audit. It seems to me there are two case scenarios here: one is that the audit finds that in fact the rate increases of the toll are in accordance with the originally struck agreement, or the possibility is that they're not, which is more a legal question than an audit question in many respects. From that perspective, it would be very difficult. But assume for a moment that there was a legal decision on the second case. In the first case, if it's in accordance, it would just be an affirmation that they have acted in accordance with the original agreement. It would not be over a particular issue. If the outcome is that there's no such action, then I'm not sure what this committee would do or what the action would be at that particular time. So from an audit perspective, I am somewhat concerned for the moment whether this is actually a legal matter or an audit matter. I need more information on that.

**Mr Christopherson:** That's fair. Thank you, sir. I thought Mr Phillips was helpful in offering a suggestion, and I won't make his argument; I'll give him the chance to do that. But he did point out that there were opportunities within that contract for public protection and that those matters hadn't been acted on. I appreciate your comment that as long as the actions are in accordance with the agreement, whether there should be an agreement or not is more political than auditor, in terms of responsibilities. But if there are protections within the agreement for the public that aren't being acted on or maximized, then it would seem to me that that would be an appropriate place for you, given that your chief responsibility is to make sure the public's interests are taken care of.

Actually, that was Gerry's lead. I'll defer to him to follow up on it.

**The Vice-Chair:** Mr Galt has a question or a comment.



**Hon Mr Galt:** I was just interested in the discussion there. Certainly, if something's being carried out that's illegal, the government should know about it and action should be taken. I don't disagree with that. But just looking back—at least how I see this is it goes back to the agreement that was made at the time; it was advertised, etc. In 1999 at the annual conference of the Canadian Council for Public-Private Partnerships, our auditor did say the sale of Highway 407 was "really very well handled, from my perspective." So I think that is a statement on how the sale was made and how the agreement was drawn up, and I respect his opinion.

I come to Mr Phillips, and I think in terms of how here we have a highway that has been very, very successful in the hands of a private company, which I thought was what was happening with the previous government when it was—you remember the Minister of Transportation speaking at one of the municipal conferences. I was quite surprised to find out when I came into office that, no, in fact the Ontario government actually had built it. But here we have a real success story. Things are going very well for the company. Everybody had their opportunity to compete at the time. I'm just wondering what Mr Phillips's approach would be had the economy not been so good and this company had been really struggling and maybe even going bankrupt. Would he be here at this table to help bail them out? I don't know; he would have to answer that. But I gather he is concerned because they are making a good profit out of it. I would suggest that the value of the highway is as great as it is because of the economic boom in the province of Ontario: a million-plus net new jobs, a lot of people trying to get to work, and they're using a highway such as that to overcome the traffic jam problem. It's certainly making a big difference. When I go to commute home, I do not have any difficulty on the 401 until I get out to Brock Road. That was the intent, to overcome some of the congestion on our 400-series highways, particularly the 401, and it's certainly meeting that.

The other comment I heard from Mr Phillips was that it's such a cash cow. My understanding is that as of February 1, the toll rate is 12.95 cents. American toll roads, converted to Canadian dollars: in San Juan, California, it's 18.4 cents; in Foothill, California, it's 16.2 cents; in eastern California, it's 25.7 cents; on the SR-91, it's a variable rate up to 46.6 cents; on the E-470 in Colorado, it's 15.7 cents. So certainly those are significantly higher rates than we currently have on the 407. I would suggest that if we didn't have this kind of operation, I don't know how long it would be—I remember Mr Pouliot presenting to the municipal conference and having it quite light; he had to get elected I think it was nine times before he could get a highway the length of the 407 at least planned. I'd have to agree with him. It would take a very long time to get the highway extended down to 115/35, and that's going to be quite an economic boon for eastern Ontario once that highway is extended out there. Without the present

success story, I think it would be a long time before that highway might get extended.

**1310**

So I come back to, if in fact they are operating within the agreement and if the agreement was properly advertised and dealt with, as Mr Peters suggested it was, then I think full steam ahead.

**The Vice-Chair:** The auditor has been quoted once or twice, and he'd like to have a comment with respect to that.

**Mr Peters:** If I may comment, the comment that I actually made in public was that the bidding process was properly handled. We did not get into the drawing up of the contract or were not party to any of the terms of the contract. I just wanted to clarify that for the record. What happened is that there was a good process in place to find proponents who were interested in buying such a highway at that particular time. That was the only part of the process that I commented on.

**Mr Phillips:** That's a very helpful comment by the auditor. I appreciate that.

I have a different view than Mr Galt. He views the highway as quite a success. I think people feel they were misled. They were told that the tolls could be adjusted by 2% per year plus inflation for the first 15 years, then up by inflation only, and the tolls could increase by about three cents per kilometre over the first 15 years. Then they find that the owner says that's not the case.

In terms of relieving congestion, one of the challenges is how we get our trucks moving quickly, and they tell me they can't afford to use the road. The Ontario Trucking Association says, "We cannot afford to use that road."

It may be helpful, Mr Chair, if I can just put my motion, because then—

**The Vice-Chair:** I think that would be appropriate.

**Mr Phillips:** I move that the public accounts committee, with the assistance of the Provincial Auditor, review the 407 contract with a view to finding mechanisms to protect the 407 users from unfair toll increases.

*Interjection.*

**The Vice-Chair:** The motion has been made.

**Mr Phillips:** Just to explain the motion, I had thought there were these protections in the contract. That's what I had thought on this release of April 13—

**Mr McDonald:** On a point of order, Mr Chair: Mr Phillips has put a motion forward. I don't think he can continue to speak to the motion, can he?

**The Vice-Chair:** Technically speaking, no. The motion is on the floor. Then we'll recognize speakers to it.

**Mr McDonald:** I'm fine with that.

**The Vice-Chair:** The motion has been made. It's on the floor; it doesn't require a seconder. You may require it in writing, but the motion has been made and it doesn't require a seconder. So I guess perhaps Mr Phillips is the first speaker.

**Mr McDonald:** That's fine. I just wanted to make sure it was clear that we're now going to discuss the motion. Is what the Chair is indicating?

**The Vice-Chair:** Yes.

**Mr Phillips:** I just assumed that's what I was doing.

**The Vice-Chair:** Yes. So did almost everyone else.

**Mr Phillips:** Thank you. Again, it goes back to my concern around the 407 contract, and that is that what the government had indicated at the time of the sale was that there were some mechanisms to control the tolls. The owner is saying they can take them up essentially without limit. What I'm trying to do is to hopefully get support of the legislative committee to examine the contract to find mechanisms to either enforce what's in the contract or to develop a mechanism that will protect the 407 users from unfair toll increases. The sense of urgency on this is that the longer we wait, the more difficult this will be. For many people in what we call the 905 area, this is a matter of considerable importance to them. So that's the purpose of the motion, Mr Chair.

**Mr McDonald:** Could we get a copy of the motion?

**The Vice-Chair:** Yes. We're in the process.

**Mr Phillips:** Well, I have it in writing, but nobody could read it. Do you want me to—

**The Vice-Chair:** It would certainly be helpful to all the committee members if they had it in writing.

Mr Christopherson?

**Mr Christopherson:** I think there was a nice little snicker when we had Mr McDonald ask his question, because I think we all did understand the motion was on the floor, but I suspect that one needs to look a little further. I think his point in doing that was to determine that we've got now a focal point for this in terms of action, because their intention is to use their majority vote to slam this thing shut and you want to make sure you've got an actual motion on the floor. So I think there was a little more to what he was asking than might first appear.

The fact is that this committee is going to do the government's dirty work here. They're going to make sure that as little light as possible gets shone on this agreement. I will be absolutely flabbergasted if any one of them supports this, even though they know this is an important issue to the people of Ontario. It's important to business. You've heard about the aspect of trucking. I know, to say it again, the complaints I get from my constituents in Hamilton, a prime target population for the use of this highway, and the cost is prohibitive. It's a big, big deal to decide you're going to take the 407 because of the cost. If there's any chance that anything can be done to put more protection in for the public and the businesses that use that highway, I think we've got a moral obligation to do that.

But I'm going to tell you, Chair, we're on the brink of an election in this province and there is no damn way this committee is going to let that happen. As much as it's a shame and any one of them who did would be a hero in their own riding for doing it, I don't think it's going to happen. That's just a further testament to the fact that the

government likes openness and transparency when it's only rhetoric. When it comes time to act on it, this is probably the most secretive government that we've had in the province that I can imagine.

*Interjection.*

**Mr Christopherson:** I hear Mr Galt now making some comments. Prove me wrong and vote for Mr Phillips's motion. Prove me wrong.

*Interjection.*

**Mr Christopherson:** Save your words.

**The Vice-Chair:** Mr Galt, please.

**Mr Christopherson:** Words don't mean anything in the context of this debate. We've got to—

*Interjections.*

**Mr Christopherson:** Oh, look how upset they are.

*Interjection.*

**The Vice-Chair:** Order. I don't know that there is a point of order, but I'll hear it.

**Mr McDonald:** Chair, we're debating a motion and he's speaking directly to us. He should be speaking to you or speaking to the motion.

**The Vice-Chair:** We are in a relatively small room. Give us a little latitude, Mr McDonald. I'll take it that he's speaking through the Chair to you. If he happens to be looking at you, there's not much I can do about that. But just relax for a minute and we'll get this done. Mr Christopherson.

**Mr Christopherson:** Thank you, Chair. Of course my comments are through you, but that doesn't change the fact that they're all upset. Their hope now is that we have as little discussion on this as possible, move the previous question, get to a vote, use their majority, shut it down and hope that nobody talks again about the 407. That's the game plan. What's unfortunate about that is that there are questions that the public, through us, have a right to ask.

The members of the government talk about the fact that we're politicizing this thing. Look, this government is the one that immediately jumped to that issue of politicizing. Mr Phillips asked if we could have a review of this. He didn't manufacture this issue. The concerns are quite legitimate. I hear them all the time. So he's gone to the appropriate committee and asked for a very straightforward and in many ways dull motion asking that we look at this to see if there's something we can do to protect the public, because they really believe they're getting ripped off and a lot of us think they're getting ripped off. Yet what's going to happen is, for all Mr Galt's protestations, they are going to use their majority to once again shut down the issue, because they don't want to deal with the reality.

Those are my thoughts, and I would love to be proven wrong. All it takes is one of them to vote in favour and I'm dead wrong. I would love to be dead wrong, but I don't think that's going to happen this afternoon.

1320

**The Vice-Chair:** Further discussion?

**Ms Marilyn Mushinski (Scarborough Centre):** It's interesting; I used to be a full-time member of this



committee, and prior to 1999, there were very few requests for the auditor to review certain issues that the government was involved in. Since 1999, I know there have been at least six, maybe seven, requests outside of the normal system to ask the auditor to get involved in. Of course, they've all been made by either the Liberal or NDP members, yet they accuse us of being political, which I find kind of interesting.

I believe there is a very strong role for this committee. I really enjoyed being a member of the standing committee because nine times out of 10 I would say this committee worked very well together toward a consensus opinion with respect to the Provincial Auditor's report. I think a lot of good changes have been made to government administrations as a result of the auditor's good works and certainly the good works of this committee, to pull together, to make government more accountable to the public.

I really do take some strong exception to some of the words I've heard, especially from the member for the NDP with respect to his comments regarding certain members of this committee, because I really do believe that this committee does take very seriously its role in making government accountable.

I've heard a few things this morning. I use Highway 407 on a fairly regular basis. It seems to me that I have a choice as to whether or not to use Highway 407. I choose to use Highway 407 because I save probably between 20 and 25 minutes travelling across the north part of Metropolitan Toronto, and I think that's a good deal for me personally. That's why I choose to use Highway 407.

**Mr Christopherson:** Do you expense it?

**Ms Mushinski:** I don't think I need to get into sidebar comments about whether I expense it. I pay my own bills, Mr Chairman.

Interestingly enough, it seems to me that we went through a very transparent process in the sale of Highway 407, and there was a purpose for that. The purpose was clearly—and I do believe, as Mr McDonald has said, that the NDP government had clearly indicated that this would be a toll road, so I don't think that's the issue here. I think the issue here is whether or not increases are valid in terms of the original agreement. I've done a little bit of research, and it seems to me that the tolls are really to be regulated through a congestion relief model. And I thought that congestion relief model was clearly a part of the original agreement.

I don't really have any difficulty with the auditor taking a look at that agreement. My understanding is that the reason Mr Phillips has had some difficulty in getting the FOI information is because there was a third party that objected to certain components of that, so there were legal delays. To suggest that the government deliberately delayed the process—I'm not sure he said that, but it seems to have been inferred—I think is inaccurate information.

Having said that, Mr Chairman, I'm going to ask if we can have a 10-minute recess because, given some of the

information that has been discussed, we'd like to caucus for a few minutes.

**The Vice-Chair:** A 10-minute recess has been requested and granted. We will reconvene at approximately 18 minutes to—anyway, in 10 minutes.

*The committee recessed from 1326 to 1337.*

**The Vice-Chair:** We have now reconvened after our adjournment.

**Mr Phillips:** I'd like to make a minor change in my motion, after discussing it with the clerk. Technically, really, it's the committee requesting the Provincial Auditor to review it. So if I might, with the committee's indulgence, withdraw my original motion and I'll reread this other motion:

"That the public accounts committee request the Provincial Auditor to review the 407 contract with a view to the tolling rates being charged and to report to the committee."

**The Vice-Chair:** The original motion having been withdrawn, you've now made this motion. I think it has been handed out by the clerk. Is there any discussion on the motion? No discussion? I'll call for discussion a second time.

**Mr Phillips:** Recorded vote.

**Mr Christopherson:** May I ask a question?

**The Vice-Chair:** Yes, certainly.

**Mr Christopherson:** What's the difference, Gerry? One mentioned "a view to finding mechanisms to protect the 407," and that language isn't here.

**Mr Phillips:** Actually, you're right. Just hang on a second. I thought the only change we were making was to request that the Provincial Auditor review the contract. I'd like it to continue to say, "with a view to finding mechanisms to protect the 407 users from unfair toll increases." I'm sorry about that.

**The Vice-Chair:** I just have to clarify whether you're withdrawing this motion and resubmitting or whether you're amending your motion. We do have a motion on the floor.

**Mr Phillips:** I'll amend the motion I just put.

"That the public accounts committee request the Provincial Auditor to review the 407 contract with a view to finding mechanisms to protect the 407 users from unfair toll increases"—

**The Vice-Chair:** Leaving off "and to report to the committee"?

**Mr Phillips:**—"and to report to the committee."

**Mr Christopherson:** If I can, then, the change is asking the Provincial Auditor to do the review, as opposed to asking for his assistance.

**The Vice-Chair:** Yes.

**Mr Christopherson:** Is that correct, Gerry?

**The Vice-Chair:** There was a technical necessity that the auditor report to the committee because the committee itself couldn't do this.

**Mr Christopherson:** Yes. I just want to make sure I'm up to speed with where we are now, that now the only difference between the two is that one was a request by the committee, if this passed, for the Provincial

Auditor to provide assistance. This one now calls on the Provincial Auditor to actually conduct said review. Have I got it?

**Mr Phillips:** That is correct. I was informed, Mr Chair, that this committee can't do the study itself, it is the Provincial Auditor that does it, and consequently I changed my motion.

**The Vice-Chair:** Yes. We did attempt to clear that up while we adjourned.

Mr Phillips, could you once more, now, read the full context of your new amended motion?

**Mr Phillips:** Yes, I could. Is everybody ready?

**The Vice-Chair:** Slowly.

**Mr Phillips:** "That the public accounts committee request the Provincial Auditor to review the 407 contract with a view to finding mechanisms to protect 407 users from unfair toll increases and to report to the committee."

**The Vice-Chair:** OK.

**Mr Phillips:** Sorry. My apologies, committee members.

**The Vice-Chair:** Well, we want to get it at least technically right so we can in fact deal with it.

Now I will ask for any discussion on the motion.

**Mr Bart Maves (Niagara Falls):** Having been a member of the committee for three years and being somewhat aware of motions and how delicate they can be when we're asking the Provincial Auditor to do something, I thought that Mr Phillips's initial motion, not the second motion, but the first motion—when I realized you were going to come back and amend it, I thought it was out of order anyway, because I think you're asking the Provincial Auditor to come back and recommend policy.

**The Vice-Chair:** In a discussion during the time we adjourned, the question was raised about it being out of order, and it was just simpler to come back in, withdraw the motion and then reintroduce a new motion.

**Mr Maves:** I understand, but I thought that's why you were withdrawing the first one, and then the second one dealt with that. But I think the third one, the changes he just advocated, go back and make the same mistake the first one did.

**The Vice-Chair:** I don't believe so. The mechanics of the Provincial Auditor reporting to the committee are the same. The instruction to the Provincial Auditor may have changed. That's my view. I'll ask the clerk to assist us in that.

**Clerk of the Committee (Ms Anne Stokes):** Initially, the idea is that the committee would ask the Provincial Auditor to conduct the review and then to report back to the committee. So there has to be an action and then to report back to the committee as well. The terms of what you want the auditor to do, then, I think is what the amendment is subject to.

**Mr Maves:** Right. But when we did—for instance, we voted unanimously to review the Bruce nuclear contract. I think the wording in that might be of use to the members opposite, because I think this wording is again putting the Provincial Auditor in the awkward position of actually recommending policy on a contract. I think

that's outside his area of jurisdiction. It's a fine line, I admit, but I think the wording of the third one makes the same mistake as the first one.

**Mr Hastings:** I call for the vote.

**Mr Maves:** On which one?

**Mr Hastings:** The one that's the most appropriate.

**The Vice-Chair:** Well, there is a motion on the floor. If you're calling for the vote, I'll have to accept that call, but I must say that your colleague is trying to—at least I understand that he's trying to—reach a compromise on this and get the wording of the motion more explicit.

**Mr Maves:** I just think that the third one is as out of order as the first one.

**The Vice-Chair:** In my view, it's not out of order in that it instructs the Provincial Auditor to do something. Whether you agree with what it instructs the auditor to do or whether there's any preconceived assumption on what the Provincial Auditor is doing, I guess that's another question.

**Mr Maves:** If the Chair has ruled that it's in order, it's in order.

**The Vice-Chair:** No further discussion?

**Mr Christopherson:** Mr Chair, on a point of order, a minor technicality; no accusations, I'm just determining: There are rules around when people can sub in. I note that there's a member of the committee who has changed, and I just wondered if that indeed did happen during the appropriate time frame. I'm hearing the clerk indicate yes.

**The Vice-Chair:** Yes, he is validly subbed in.

**Mr Christopherson:** So Mr Maves is OK to vote?

**The Vice-Chair:** Absolutely.

**Mr Patten:** Is he old enough to vote?

**Mr Christopherson:** Is he smart enough?

**The Vice-Chair:** Going back to Mr Hastings, he said, on whatever motion, the vote has been called.

**Mr Phillips:** Can we have a recorded vote?

**The Vice-Chair:** A recorded vote.

**Mr Maves:** Is that on the third motion, the amended motion?

**The Vice-Chair:** The first motion was withdrawn. The second motion was introduced and then amended. It's on the amended motion. So this will be on the amendment to amend the motion. And the amendment is? Do you want to clarify it? The words "with a view to"—deleting "the tolling rates being charged" and putting in "finding mechanisms to protect the 407 users from unfair toll increases." That's the amendment to the motion.

**Mr Christopherson:** If I can, there are two parts to this. One is, to boil down to it, we're asking that the auditor find mechanisms to protect 407 users from unfair toll increases, and the second one is that there be a report back. The first one speaks to consumer protection; the other one, though, doesn't contain any timelines. I'm wondering what your understanding of that would be. Just to say "to report to the committee," is rather open-ended. Normally one would attach some kind of time frame to that so that the action you've given takes care of



itself in terms of the direction as to when it's coming back, and one doesn't have to go out and hunt for it.

**The Vice-Chair:** That's a good point. It wasn't my motion, so I look to the clerk and the auditor.

**Mr Christopherson:** Or the mover of the motion.

**The Vice-Chair:** Just for a comment.

**Mr Christopherson:** Fair enough.

**Mr Peters:** Just to comment, if you wanted to put in "as soon as possible," that's one way of dealing with that.

I do want to express discomfort with "finding mechanisms to protect the 407 users," because normally that is outside the role of the auditor. It would be within the purview of this committee, based on my report, to find mechanisms to deal with that, but as auditor of the Legislature, I would feel uncomfortable in being charged with finding a mechanism to resolve this issue. I can take a look at the contract with a view to the tolling rates being charged, where it applies, whether it is in accordance with the agreement that was struck, whether this has all been protected. But as to "finding mechanisms to protect the 407 users from unfair toll increases," I would have to seek advice whether I have to decline that commitment as being in conflict with my other duties. I just want to put this on. I see some difficulty on that.

**The Vice-Chair:** The vote has been called. Are there any other points of order or clarification?

**Mr Christopherson:** There does seem to be something a little less than full clarity here. That almost takes us back to the original motion, which mandated the committee to undertake the review and asked the Provincial Auditor to provide some assistance.

**The Vice-Chair:** Might I suggest that it doesn't. The problem with the first motion was that the committee doesn't have the resources to carry out the motion. The second motion, which was put in after the first was withdrawn, did point out that the committee would request the Provincial Auditor to review the contract with a view to tolling rates being charged and to report back to the committee. That, in my view, is a valid motion.

Now it has been amended to delete "the tolling rates being charged" and insert "finding mechanisms...." That's what the Provincial Auditor is now referring to. So if you want direction from the Chair, I can suggest what you might do, but it's your motion and your meeting.

1350

**Mr Christopherson:** If I can, Chair, with all due respect, the notion that we don't have the tools—I mean, if the motion passed—hear me out, sir.

**The Vice-Chair:** Yes.

**Mr Christopherson:** If the motion passed, then we would undertake to use whatever tools are available. We have access to the Provincial Auditor in terms of his expertise. We have a legislative research person who can do all the research that we require. We can conduct public hearings where we bring in experts—legal, transportation and otherwise—who would come in and give us their thoughts on this. So while we don't have a department that we can call on to go after this, it would

seem to me that we have all the tools that we would normally have when we undertake any kind of an activity, and if we needed more, we could request it, assuming we had a majority vote which represented the will of this committee.

It's your final determination, sir, but I'm not 100% in accordance with you and the clerk, who suggest that we just automatically do not have the tools to undertake such a review. If indeed the political will is there—and it would seem to me that's the first point: is there the political will to direct that this be the action of the committee? Then, if the political will is there, what are the tools available to us, the ones I've listed and maybe others, as opposed to the other way around, sir.

**The Vice-Chair:** That may be your point of order, but that's not what we're dealing with here. What we're dealing with now—and the motion has been called; a recorded vote has been asked for—is an amendment saying, "finding mechanisms to protect the 407 users from unfair toll increases." I guess if that passes, then what you've just said very well might be the case. The motion is in order. I don't know what you're getting at.

**Mr Christopherson:** I guess I'm responding to the comments of the Provincial Auditor, which to me are pretty significant, since we were looking to him to be the major focal point of the area of expertise in this, but I acquiesce to your ruling, sir.

**The Vice-Chair:** Any other points of order? Miss Stokes, do you have any comment to add to that? No?

We can go back and forth. The mandate of the committee is to review the auditor's report. Again, maybe it's semantics as to whether we have the resources to—he's one of the resources, or the resource. The mandate of the committee is to review his report. I don't know whether the mandate of the committee goes quite as far as what you're suggesting, how we could involve other resources.

**Mr Phillips:** On a point of order, Mr Chairman: I hope the committee might give me some latitude here because I'm not a regular member of the committee.

**The Vice-Chair:** We've been giving lots of latitude here.

**Mr Phillips:** I appreciate that.

What I interpret from the Provincial Auditor's comments is that he can review the contract, review the tolling rates, but he cannot propose mechanisms for the public dealing with it. That would be up to the committee after they receive his report. So it seems to me that if we're all interested in it—can't we find ways that we can better serve the 407 users, protecting them from what I regard as unfair toll increases—the sequence of events has to be that we request the auditor to review the contract with a view to the tolling rates being charged, and report to the committee—that motion. The committee can then take that report and recommend mechanisms.

I don't know whether I can get the committee's agreement to this or not, but I'm inclined to think that the motion that was suggested by the clerk is probably the appropriate one to try to get at what I'm getting at, and

then when that report comes to the committee from the Provincial Auditor, the committee can make those recommendations on mechanisms.

**The Vice-Chair:** You've expressed what I said: if the committee wanted direction, well, yes, you would deal with the amendment in a negative way and deal with the motion in a positive way and we'd get to what you were just saying.

**Mr McDonald:** On a point of order, Mr Chairman: When Mr Phillips put the motion forward and you ruled it in order—the Provincial Auditor had a problem with it, but you ruled it in order, and Mr Hastings called for a vote. What happened next?

**The Vice-Chair:** Which motion were you speaking of? The original motion—

**Mr McDonald:** Exactly.

**The Vice-Chair:** —or the second one? No, the original motion—I didn't rule on it in any way, shape or form. We had the original motion. There was an adjournment. There was some discussion that included whether in fact it was in order. So it was decided then that the easiest way to handle it was to just simply withdraw it, and I didn't have to rule on it at all.

**Mr McDonald:** Right. I don't have a problem with that part.

**The Vice-Chair:** Then we had the second motion, which, yes, I say is in order, and we have an amendment, which I say is in order, but there's significant question surrounding it.

Then Mr Hastings called for the question. It was called for a recorded vote on the amendment, and then these points of order were raised. I think the points of order have a little grey area. There may have been some discussion in it, but we are now concluding the points of order. If there are no more points of order, then the amendment is to be voted on, and a recorded vote.

**Mr Maves:** The amendment?

**The Vice-Chair:** The amendment.

**Mr Maves:** And then the motion.

**The Vice-Chair:** Then the motion.

**Mr Maves:** OK.

**Mr McDonald:** So what's the amendment?

**The Vice-Chair:** The amendment is to remove the words "the tolling rates being charged" and insert the words "finding mechanisms to protect the 407 users from unfair toll increases," and then it goes on, "and to report to the committee."

**Mr McDonald:** And it goes on?

**The Vice-Chair:** The amendment is this: "finding mechanisms to protect the 407 users from unfair toll increases" to replace the words "the tolling rates being charged."

So vote "no," vote "yes," and then we go for lunch. OK? A recorded vote was asked for, so the vote.

## Ayes

Christopherson, Patten, Phillips.

## Nays

Hastings, Maves, McDonald, Mushinski.

**The Vice-Chair:** That being dealt with, the amendment is defeated.

The main motion is, "That the public accounts committee request the Provincial Auditor to review the 407 contract with a view to the tolling rates being charged and to report to the committee."

**Mr Christopherson:** Just one clarification, Chair. There was a recognition on the part of the auditor—the time frame thing. Would you accept an amendment to that now, being a friendly amendment to the extent that it's putting a fine point to the reporting action?

**The Vice-Chair:** That's a friendly amendment, I think, yes.

**Mr Christopherson:** And then I would just make that "as soon as possible on the advice of the Provincial Auditor." So I would move that as a further amendment to that, Chair.

**The Vice-Chair:** As a friendly amendment.

OK, we have an amendment that the report be made "as soon as possible on the advice of the Provincial Auditor." Discussion?

**Mr Phillips:** A recorded vote.

## Ayes

Christopherson, Patten, Phillips.

## Nays

Hastings, Maves, McDonald, Mushinski.

**The Vice-Chair:** The motion is defeated.

Now we're back to the main motion. It need not be read again, I would hope. Are you ready for the question?

## Ayes

Christopherson, Patten, Phillips.

## Nays

Hastings, Maves, McDonald, Mushinski.

**The Vice-Chair:** The motion is defeated.

Is there any further business? There being none, this committee stands adjourned until 9:30 am sharp on Tuesday, February 11.

*The committee adjourned at 1359.*



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Ms Anne Stokes

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# Official Report of Debates (Hansard)

Tuesday 11 February 2003

# Journal des débats (Hansard)

Mardi 11 février 2003

## Standing committee on public accounts

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## LEGISLATIVE ASSEMBLY OF ONTARIO

## ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON  
PUBLIC ACCOUNTSCOMITÉ PERMANENT DES  
COMPTES PUBLICS

Tuesday 11 February 2003

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*The committee met at 1021 in room 151, following a closed session.*

2002 ANNUAL REPORT,  
PROVINCIAL AUDITOR

Consideration of section 3.06, consulting services.

**The Vice-Chair (Mr Bruce Crozier):** This morning's session of the standing committee on public accounts will come to order. Today we are considering section 3.06 of the auditor's report, consulting services.

At the outset, I might say it's evident that we have a number of ministries and a significant number of visitors with us today, so there may be a fair amount of movement around the room and we ask your indulgence.

To give you an idea of the process today, the ministries will be given up to half an hour of opening remarks. We will then go in rotation of the caucuses in 20-minute sections, starting with the NDP caucus. I would ask the members of the committee, since we have some five or six ministries listed here, that you may want to identify the ministry to which you have a question. Again, that may cause some movement. We ask those who are coming to the desk to answer questions or comments to please identify yourselves in each case for the committee and for Hansard.

With that, I welcome you and your colleagues this morning. You have up to half an hour for your opening remarks.

**Ms Kathryn Bouey:** Good morning. My name is Kathryn Bouey. I am the Deputy Minister of Management Board Secretariat and the Secretary of Management Board of Cabinet.

I want to thank the committee for providing my colleagues and me with an opportunity to discuss the section of the Provincial Auditor's 2002 annual report that deals with consulting services. We value and appreciate the work of the Provincial Auditor and of this committee, as we do any contributions that help us build a more accountable, effective and efficient public service. I will be speaking about Management Board Secretariat's corporate role and our response to the Provincial Auditor's report.

Before I begin my presentation, as you may be aware, we had a recent deputy minister shuffle which has had an impact on three of the ministries represented here. For continuity purposes, and to provide you with our best

information, Virginia West, Deputy Minister of the Ministry of the Environment, will be speaking on behalf of her former ministry, the Ministry of Public Safety and Security. She will be addressing the front-line ministry perspective, including how a ministry works to comply with directives.

We have four other ministries represented here this morning who will also be available to respond to the committee's questions. Saad Rafi, now Deputy Minister of Public Safety and Policing Services with the Ministry of Public Safety and Security, will represent his former ministry, finance. Bob Breeze, associate deputy minister, will be speaking on behalf of the Ministry of the Environment. Phil Hassen, Deputy Minister of Health and Long-Term Care, and John Burke, Deputy Minister of Natural Resources, will address the issues connected with those ministries.

Following our opening remarks, the deputies and their staff will be available to respond to any questions you may have.

The government of Ontario values both the audit process and the role the Provincial Auditor plays in that process. We view the Provincial Auditor's annual reports as an essential and objective third party comment on how the government delivers its policies and priorities. This year's report provided us with wide-ranging recommendations for improving our business practices, especially as they relate to the planning, selection and management of consulting services. We took these recommendations very seriously, as did cabinet. We proposed changes to Management Board of Cabinet and received the board's approval for improvements to the procurement policy directives. We are now in the process of finalizing the overall content of the directives. We have strengthened our procurement policy directives and will be introducing new measures to improve the processes surrounding the use of consulting services by ministries. As you know, the Premier has committed to strengthening the policy with respect to lobbyists who may also be providing consulting services. Once we have finalized these additional changes—and I might say that the Premier and the Chair of Management Board are taking a keen interest in making these provisions as rigorous as possible—the strengthened procurement directives will be communicated to ministers and come into effect. I will touch on all the planned changes shortly.



But first some context about our role with respect to corporate controllership, a key responsibility of Management Board Secretariat's central agency function within government. As you likely know, Management Board of Cabinet establishes the corporate management policies and guidelines that set out the way the government manages its people, technology, finances, information and other resources. Management Board Secretariat oversees the implementation of these policies, including corporate directives related to the selection and use of consulting services. Corporate directives incorporate mandatory requirements that ministries must follow. Our corporate policies and guidelines are intended to provide the framework for ensuring accountable management and stewardship of public funds by ministries delivering a vast array of programs and services. Management Board Secretariat is responsible for keeping the corporate policies and guidelines up to date, and ministries are accountable for their own actions and compliance with the corporate framework established by the government. This morning, I am going to discuss our action plan to respond to the Provincial Auditor's comments in the following areas: selecting consultants, managing consultants and ensuring compliance with the corporate policies.

As you are well aware, the Ontario government is a large organization with 24 ministries delivering hundreds of programs to meet the needs of the people of Ontario. The government's policy and service delivery agenda is ambitious, and the Ontario public service, or the OPS, is working hard to implement that agenda. All across the government, initiatives are underway to transform the public service into a client-service-focused organization which is more efficient and more effective and makes the best use of limited taxpayer funds. We are changing our business processes and we are introducing new technology to improve client service and management systems, and we are in the midst of a process of long-term organizational renewal.

Within this context, consultants are an important part of the government's operations and are used by ministries in a number of circumstances. For example, consultants are used for time-specific project work and to supplement ministry staff resources on a time-limited basis to deal with workload pressures. Consultants are also used to provide specialist advice in certain areas, for example, with respect to newer complex technologies and issues, or new business processes. These specialist resources may be in hard-to-recruit areas, or they may be used for time-limited periods to enable a business change and knowledge transfer. Consultants are also used when we need independent advice, and sometimes consultants are used to bridge the gap when it takes time to recruit new staff into a new or changing function.

As the Provincial Auditor has noted, one area where we've been using consultants quite extensively is in our information and information technology organization. Increasing the use of technology in service delivery, in government administration and across sectors—becoming an electronic government—allows us to make sig-

nificant improvements in service delivery while becoming more efficient. Renewing the OPS workforce to ensure we have the staff skills we need in the government is another way we are achieving these goals. Through the combined efforts of our OPS staff and with the input of our expert consultants, we have achieved substantial transformation. Government services are increasingly more convenient for our residents and businesses, and the Ontario government is recognized throughout the world as a leader in innovation and e-government. Indeed, we've won international awards. For example, the Ontario public service recently won the Commonwealth Association for Public Administration and Management gold award for innovation.

Within that context, I'd now like to turn to the Provincial Auditor's report on consulting services. As noted earlier, Management Board of Cabinet has responded to the Provincial Auditor's concerns by improving the procurement directives. I'd like to highlight a few of our planned changes this morning.

#### 1030

The Provincial Auditor has told us that we need clear and well-understood processes to identify when consultants are required and how they are selected. Ministries will be required to fully document how they assessed available internal ministry resources before turning to consulting services. Ministries must then clearly define the requirements and deliverables of any assignment before commencing the selection process and then follow enhanced requirements for evaluating bids and selecting vendors to ensure they get well-qualified people to do the job cost effectively.

In the area of selecting consultants, the Provincial Auditor placed a sharp focus on government vendor-of-record arrangements. Let me take a moment to explain what these are. To assist ministries in acquiring consulting resources, the government has developed a vendor-of-record program, or VOR program, for consulting services in subject areas where we expect ministries will have frequent need for consultant services. Consultants included on corporate VOR lists have successfully competed in a fair, open and transparent process. They have met rigorous mandatory standards as well as evaluated criteria, including price, in order to become pre-qualified to work for the government. Ministries can then select from a list of pre-qualified vendors when there is a need to engage consulting services. The vendor-of-record arrangements provide administrative efficiencies for ministries by not having to repeat lengthy formal selection processes each time they need to secure consulting services. They also reduce overhead costs to businesses since the businesses are not required to compete in multiple similar RFP processes by several ministries.

I'd now like to turn to another area: managing consultants once we have them on board. We are taking steps to strengthen the requirement for the management and consulting services contracts. We will impose strict new controls on the ability of ministries to expand the scope



of a consulting assignment or to structure a consulting assignment so as to avoid an open, competitive process.

These new rules are intended to require ministries to pay close attention to careful planning and accurate costing of proposed consulting assignments. Enhanced mandatory requirements relating to documentation, management and payment of consultants have been approved. These new rules will also stipulate that consulting assignments and vendor performance issues be properly documented and that any vendor performance issues be resolved. In addition, the new rules will set out the required approvals that must be obtained for any changes to the scope or terms and conditions of agreements. We are also tightening the rules with respect to tax compliance. In particular, the Minister of Finance must verify the tax status of a vendor before that vendor can be awarded the contract.

The Provincial Auditor recommended a number of improvements to our previous VOR practices because he was concerned that the way the VORs were being used did not always achieve value for money. Specifically, he recommended that the VOR guidelines be strengthened to clarify the process by which the consultants are selected and that guidelines be provided to ministries to require that larger projects not be subdivided into smaller assignments to avoid competition. The revisions to the procurement directives will be intended to address these concerns. As a first step, we are strengthening our rules by formally recognizing VOR arrangements in our procurement directives. We are also clarifying and strengthening the specific rules around requirements for vendor-of-record second-stage competitions to further encourage competition and value for money.

Second-stage competitions refer to the selection process of a particular vendor from the vendor-of-record list for a specific assignment. The first stage is, of course, when the vendor list is established and is similar to a roster of suppliers or vendors. At this stage, we will seek commitments that they are providing pricing comparable to the pricing that they provide similar large public sector organizations in Canada. In the future, a formal second-stage competition will be required when making use of VOR arrangements for procurements above \$25,000. We will also explore where we can obtain price discounts from vendors. In addition, we are specifying a ceiling value of \$750,000 for the use of the vendor-of-record arrangements unless otherwise approved by Management Board of Cabinet. Beyond the ceiling, a full, separate competition must take place. In addition, we are establishing new approval and reporting requirements to ensure that projects using VOR arrangements are not subdivided into smaller projects to avoid competition or to miss opportunities to achieve greater value for money.

In summary, we are taking action to further entrench the principles of competition and value for money in our directives. I should note that for procurements that do not use a vendor of record, the existing rules have not changed. That is, full, open tendering is still required for goods over \$25,000 and services over \$100,000.

Beyond our vendor-of-record process, we are introducing changes to the executive approvals required for each level of procurement. For contracts valued at over \$1 million, Management Board of Cabinet will have to approve the planned procurement. This includes the establishment of vendor-of-record arrangements valued at more than \$1 million. This provision, which used to apply only to IT procurement, now will apply to all goods and services procured.

We are also taking steps regarding non-competitive sourcing and consulting contracts. In the future, deputy heads will have to approve all non-competitive procurement valued at \$25,000 or more, and Management Board of Cabinet must approve all non-competitive consulting contracts valued at \$500,000 or more.

We are establishing additional mandatory documentation requirements in the procurement directives to ensure that full justification is provided for any non-competitive process. This will require greater due diligence by ministries to receive approval for a non-competitive process and establish a consistent justification process for all ministries. Unavoidably, sometimes a ministry will need services urgently; for example, to deal with an emergency or a natural disaster. In those cases where the ministry would normally require Management Board of Cabinet approval, it will have to inform the Secretary of Management Board of Cabinet as soon as possible about the situation and then report back to Management Board on the circumstances and the justification.

Another major theme in the auditor's report involves the issue of knowledge transfer. We agree with the auditor about the need to ensure an effective transfer of knowledge from consultants to public service staff. Our previous user guides for corporate vendor-of-record arrangements were designed to foster transfer of consultant knowledge to staff where appropriate, but in light of the auditor's concerns we are taking additional action. The new rules will require that VOR arrangements and individual ministry procurements include contractual obligations to ensure a transfer of knowledge from consultants to public service staff where applicable. The goal of this requirement is to build capacity within the Ontario public service and help retain the ideas and the knowledge that we paid for.

These new rules will complement human resources strategies already in place to address the long-term human resources requirements of the OPS, including programs to improve our recruitment and retention of qualified IT staff in critical government positions and a new internship program to attract skilled graduates in key areas, including IT and electronic service delivery. We want to harness their skills to build a better public service for the future.

The Provincial Auditor said that ministries should comply with the consulting services directive by clearly defining assignments and specifying deliverables, time frames and costs. We are implementing changes to our directives to require ministries to report to Management Board Secretariat each year on the planning, acquiring



and management of consulting services, including any exceptions to open tendering and vendor performance issues. Requiring ministries to report back every year on their use of consultants will enhance internal ministry reporting and monitoring and lead to better management of the use of consulting services across government. The report will detail ministry management and use of consulting services and help us monitor the use of both consulting services and vendor-of-record arrangements across the government.

We are initiating a corporate training program for managers to guide them on how to hire and manage consultants. This program will help ensure that when consultants are used it is for sound business reasons and there is always the proper documentation in place to define the scope of work, time frames, deliverables and related costs. We will also offer enhanced training for senior staff throughout the government on contract management. This course will help prepare appropriate procedures to ensure they are followed and that payments are only made based on stipulated terms of any consulting contract. We are developing tools such as a checklist for the procurement and management of consulting services to assist ministries to effectively implement their new obligations. We are determined to evaluate the effectiveness of these changes and continue our work with ministries to further enhance the efficiency and value for money of our operations.

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In addition, Management Board of Cabinet has directed Management Board Secretariat to work with ministries and report back with a plan to further strengthen contract controllership capacity within ministries for consulting services.

Before closing, I'd like to address a topic not raised by the Provincial Auditor in his report. The Premier has committed to strengthening the rules around lobbyists who may also be providing consulting services to the government. The Premier and the Chair of Management Board are taking a key interest in this matter and want to assure themselves that we are taking a very rigorous approach. We agree that it is essential to have greater disclosure and transparency of these kinds of activities and that is why we intend to clarify the rules. The intent of the policy now being finalized is to ensure there is no conflict of interest at the outset and that none emerges during the course of the consulting assignment. Once the new policy with respect to lobbyist activities is approved, we will be communicating all the new directives to ministries.

This morning I have told you how we are planning to strengthen our policies around selection and management of consultants in the Ontario government, as well as how we at Management Board Secretariat are working with ministries to increase their compliance with corporate policies. In taking these steps, we have responded to the concerns of the Provincial Auditor, and I thank the committee for the opportunity to outline these actions here today.

That concludes my opening remarks, and I thank you for your attention. My colleague, Deputy Minister Virginia West, will now outline some of the controllership and organizational challenges faced by ministries and comment on how the ministries represented here today are working with Management Board Secretariat to implement their action plans to address the auditor's concerns.

**Ms Virginia West:** Mr Chairman, members of the committee and Mr Peters, let me begin by thanking the auditor for his work and that of his staff. We recognize the important role of the Office of the Provincial Auditor in maintaining public confidence in the Ontario government and in its public service. Thanking the auditor for his efforts, however, would mean very little if we did not also commit to follow through on his recommendations and improve the way we do business. I know I speak on behalf of my colleagues when I say that we are and will remain committed to continually improving our systems and processes.

We've all reviewed carefully the recommendations of the Provincial Auditor to determine how they may best be implemented. We are also committed to ensure that we comply with the planned revisions, referred to by Deputy Bouey, to Management Board procurement directives.

The auditor's work was completed in the spring of 2002, at a time when the new Ministry of Public Safety and Security was being forged out of two former ministries: correctional services and Solicitor General. The information technology division, which was the focus of the auditor's comments for the Ministry of Public Safety and Security, provides services to the entire justice sector. Because our facilities are spread across the entire province, much of our mission is delivered through contracting with the private sector. This, I might add, is a challenge faced by virtually every line ministry in the Ontario government. As deputies of line ministries, we recognize that systems can always be improved, and the auditor's report has pointed out several areas that we are addressing. While I am speaking today on behalf of my colleagues, I will naturally draw on examples from my own experience.

As Deputy Bouey has explained, there are several factors that enter into the decision to use consultants rather than permanent staff. Let me illustrate how that works at the operational level. In our response to the auditor, we made two general points about the use of consultants. The first was that the rapid growth of information technology has made it hard to staff IT positions in the first place, and when these staff exercise their right to retire or resign, it can be very difficult to find qualified replacements. At the same time, we are obligated to provide critical support to front-line service providers. The solution often requires that we make use of consultants.

Our second point is related to the nature of information technology work, which is characterized by time-limited, specific projects. As Deputy Bouey said, in these situations consultants provide specialist advice, for



example, with respect to newer, complex technologies and issues or new business processes. When these requirements arise and we need a relatively large number of highly skilled resources for a relatively short period of time, it makes more sense to hire consultants with specific skills for the required time period.

There is another situation when outside resources are used by the government, and that is when management decides that the most effective way of serving the taxpayer is by adopting an alternate service delivery model, generally known as ASD. When a ministry makes such a decision, it proceeds with a Management Board submission to obtain the requisite approvals.

In the case of the more than 40 consultants at the Ministry of Public Safety and Security in the auditor's report, all of these factors played a role. This was not a single group, but rather three separate ones, and the circumstances surrounding each were quite different. The first group consists of former staff who became consultants and who are currently employed by a third party vendor. They provide what's called tier 1 help desk services to the ministry under an alternative service delivery arrangement that was approved by Management Board.

Nevertheless, the issue raised by the auditor with regard to the tier 1 help desk service staff is valid. These were former employees who became consultants on short notice during the period from July through October 2001. However, their transition from temporary employment contracts to consulting contracts was just the first step in preparing for ASD. These former staff were told that tier 1 help services would be required, and they sought employment with qualified vendors of record. These staff returned to the workplace as consultants through valid contracts with two different vendors of record.

The auditor was also correct to point out some problems with the business process used with the second group, which provides what's called tier 2 infrastructure support. They were originally hired in the expectation that permanent positions would be created for them. However, management later decided to provide the service through the use of an external vendor. This group also sought employment through a qualified vendor of record. This occurred between May and August 2001.

The third group involves people working on time-limited project-based activities, as I mentioned earlier. Of this group, more than half are no longer on contract. The projects that the rest are working on will be wrapping up, some at the end of March, but all by the end of August.

That said, we acknowledge that the auditor is correct in concluding that these processes could have been better handled, with better documentation of the reasons for hiring consultants and better control over their deliverables. We have taken these lessons to heart, and we are implementing several process changes. For example, control over contracts relating to information technology has already been centralized under the chief information officer. We are making it clear that we require a business case, specific deliverables, payment terms, a means of

ensuring knowledge transfer on completion and status of payments. Vendors must list any former employees who will work on the project. Every contract is signed by the CIO personally, and no payments are made until this paperwork is completed.

Similarly, the Ministry of Public Safety and Security is developing a central database for contract information that will encompass the entire ministry. When we responded to the auditor, we noted an introduction of the tools and processes had started in December 2001. To date, we have trained more than 50% of the staff who will need to use these new tools, and we are 75% of the way to a ministry-wide system. You will appreciate that this is a very large undertaking in a very large ministry, but we are hopeful that it will be completed by this spring. Once this work is completed and the database is in place, we will be in a much better position to control consulting contracts and, by the way, to answer more definitively questions such as those posed by the auditor and members of the public accounts committee.

Finally, in common with my colleagues in the other ministries, we are committed to complying with the new procurement policies being developed through Management Board. The ministry's central contract database will, for example, help the ministry with the required annual reporting to Management Board referred to by Deputy Bouey. I'm sure other ministries will be developing their own processes to ensure compliance.

At this time, I would like to thank the staff of the Ministry of Public Safety and Security for the work they've put into both the original audit requirements and, more importantly, for responding in a constructive way to the recommendations. I would also again like to thank the auditor for his constructive suggestions and to assure you, on behalf of all the deputy ministers here today, that we are doing our best to implement them.

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Although I have been speaking today as the representative of my former minister, as Deputy Bouey explained, the current deputy minister for policing services and safety and security, Saad Rafi, is here today, along with other ministry staff, to assist us in responding to any of your questions. All of us would be happy to assist the committee by trying to answer any question you may have with respect to the ministry or otherwise.

I'll turn the microphone back to Deputy Bouey if she had any closing remarks.

**Ms Bouey:** Mr Chair and members and Mr Peters, I would just say that we would now be quite willing to take any questions you might have.

**The Vice-Chair:** Thank you very much for those opening remarks. I would just remind each speaker, prior to making their remarks, to identify themselves, please.

We'll begin 20-minute segments of questions and comments with the NDP caucus.

**Ms Shelley Martel (Nickel Belt):** Thank you, Deputy, and the other deputies and staff who are here today.



Let me begin in this way. The real problem here is that of ministries not adhering to the guideline, either the directive or the guidelines that flow from it with respect to consulting services. I note that the auditor said that in his report on page 181 when he said, "We found numerous instances in which the ministries did not comply with the directive requirements." He essentially repeated that when he spoke before the standing committee on December 5, when he said, "Our main observation is that essentially the directives are not bad; they're just not being adhered to. There is ... very little mechanism in place by Management Board to ensure that they're being adhered to. Ministries seem to have quite a bit of leeway in their application of them."

So the problem I have is this. You've given us a long list of the changes that are going to be made to the directive, changes to guidelines. The problem is, if the ministries didn't adhere to the guidelines before, why are they going to now? Why is it that the ministries are not adhering to guidelines? I don't think that's going to change even if you have new guidelines.

**Ms Bouey:** Perhaps, Mr Chair, I could respond to that. We really did take to heart the Provincial Auditor's concerns about that and we are addressing that in a number of ways.

First of all, we are making sure that people are trained so they understand what they are required to do and how to go about doing it.

Secondly, we've talked about the need for ministries to prepare annual reports that come in to Management Board. We will be looking at those reports and identifying issues, and they have to deal with every consulting assignment that the ministry enters into during the year.

Thirdly, as I mentioned earlier, Management Board of Cabinet has tasked us with working with the ministries to look at how they are undertaking controllership over the consulting contracts and has asked us to come back to them about where improvements might need to be made.

**Ms West:** Perhaps I can also respond to you, because we appreciate that concern. I think some of the problems have arisen from lack of knowledge on the part of the staff that should have proper knowledge about the directives and the need to comply with them, as well as some lack of clarity in the guidelines. Deputy Bouey has referenced some of the work that is being done to clarify the guidelines.

What we have committed to do, as I noted, and we have already started within our ministry and I know within other ministries as well, is to start with appropriate training for staff to re-emphasize the need to educate the proper staff, to provide them with the tools—I mentioned particularly a contract management database—to assist them, appropriate supervision and controllership capacity within the ministry. What we're doing within our ministry is both at the central level, to the CAO, enhancing that controllership, and also in the area of the ministry that's been most problematic, the CIO, ensuring that there's a manager specifically responsible for controlling contracts, as well as having requirement clarity about proper

documentation. So we've tried to put in place processes, systems and expectations as well as oversight to make sure we are in future compliance.

**Ms Martel:** If I might, one of the changes you said was that annual reports must be prepared. That was a requirement before. This is not a new requirement, and what the auditor noted was that annual reports were not filed. So I don't see a change there. You maybe want to reinforce that, but in fact people weren't following that directive before.

The second issue I have, Deputy, is that you said Management Board of Cabinet has essentially assigned Management Board Secretariat to work with the ministries on these issues. The problem was, frankly, as I read through the auditor's report, that Management Board Secretariat was the worst offender in terms of not following the directive or the guidelines. The auditor noted at least seven examples—which was the majority of all of the ministries he looked at—where MBS didn't follow the directives, didn't follow the guidelines. So how can I have any comfort that your working with other ministries is actually going to improve the situation when, frankly, your ministry was the worst offender the auditor noted?

**Ms Bouey:** If I could deal with the first question first, in terms of the annual reports, the directives indicated before that ministries had to be prepared to file the annual report; they didn't require them. That was a weakness. Obviously, we were concerned when we set that requirement up, I gather, about trade agreements. That was why the requirement was set up that way. We've now recognized and appreciated the Provincial Auditor's advice that that's not sufficient, that we basically do have to monitor what's going on.

I definitely take the point, as did my staff, when the Provincial Auditor called our attention to the Management Board Secretariat's own experience. I can assure you that we have taken steps to put in place stronger contract controllership and stronger financial management in the areas where the problems were being experienced. We take it very, very seriously indeed.

**Ms Martel:** Deputy, you're going to come forward with new guidelines and a new directive. What happens if ministries don't adhere to that directive and those guidelines again? What do we do to make sure we're not back here two years from now, when Mr Peters goes in and reviews these ministries and finds the same thing happening all over again? What are the penalties? What is the mechanism for monitoring compliance?

**Ms Bouey:** I think this kind of issue is taken into account when performance is evaluated. The secretary of cabinet and I have been discussing mechanisms we can use to strengthen that in terms of the performance planning process.

**Ms Martel:** Will there be penalties?

**Ms Bouey:** I'm not sure what one says in terms of penalties. I think there are issues about whether people get their performance pay. If the situation is really egregious, then, as with any other issue where people really did not act properly according to the rules, we take into



account discipline and those kinds of matters. It's a case-by-case situation, but it is taken very seriously when things are not properly done.

**Ms Martel:** Will that form part of the directive?

**Ms Bouey:** It won't be in the directive per se. It will probably be in the performance planning framework.

**Ms Martel:** The auditor noted that there was a very heavy reliance on the use of consultants—not only heavy use of them but in fact many of them were doing ministry work not just month by month but year after year. Why is it that in the public service we have such an incredible reliance on consultants, many of them actually doing ministry work?

**Ms Bouey:** In terms of the reliance on consultants, we went through a number of instances—Deputy West as well—regarding the ways we have been using consultants. A lot of it has to do with the massive changes we've been making in terms of how the public service delivers its services. If you just take, for example, one transformational project underway right now, the integrated financial information system, we are putting ministries on that system in waves. It requires a lot of financial expertise, a lot of IT expertise, in a peak-load kind of way, as each of those waves goes on. When the financial system is implemented, we won't need those consultants to the same degree. It's not something where we can easily redeploy existing resources; the IT ones are in short supply.

Right now I think it would be fair to say, if one looks at the fact that we are also changing our estimates to an accrual basis, we have to worry about the capacity of the ministries and Management Board and finance themselves to ensure that those estimates are properly formulated. We need a lot of financial expertise with respect to that as well. Plus, some of the transitions to the financial information system are happening at year-end. So there's a lot of complexity and you get into a lot of peak-load issues. That is just one of many transformational projects in progress right now.

**Ms Martel:** What about staff cuts to the OPS? Isn't this the real heart of the matter and the heart of the problem? Yes, there are certainly experts being brought in to deal with IT, but the auditor also clearly noted that you had consultants who were essentially doing ministry staff work month after month after month, being paid two and three times what that staff person would be paid as a member of the OPS. I think the biggest part of the problem is the massive cuts made by this government to staff and that now ministries are feeling the impact of that, and the only way they have to resolve that or respond to it is by bringing in consultants at two and three times the cost. Don't you think that's a factor here?

1100

**Ms Bouey:** I think it's important to sort of remember the context of the downsizing that took place in the public service in the first place. In the early 1990s, as you will recall, there was a very deep recession, exacerbated by limits on federal transfers that made our revenue picture very, very difficult. The decision was made to

focus on core businesses in that very onerous situation. Since June 1995, over 18,000 FTEs have been reduced and 2,630 vacant positions were eliminated. Many of these positions—the work basically went to alternative service delivery such as road maintenance, the revamping of the Ontario Securities Commission, property assessment, the Ontario Realty Corp, and in many of those instances, staff did have the opportunity to go with their jobs. Hospital restructuring and local services realignment also played an important part.

In terms of the actual use of consultants, I think, as we've discussed, a lot of the use of consultants, although by no means all, has been in the area of IT, and it certainly has been the case that we have ended up using consultants for some ongoing work from time to time.

If you look back a couple of years ago, though, with respect to the contracts that this report deals with, we were coming out of the Y2K period where there had been a peak load in terms of demand for IT. It was in the middle of the dot-com boom. It was hard to systematically attract and retain IT people, and meanwhile we had a lot of this transformational work underway.

I think the key thing on this is what we plan to do for the future, which is to basically have people go through quite a rigorous process to determine whether the work should be done internally and whether they have those resources available.

**Ms Martel:** If I can back up, the audit ended March 2002, and the auditor pointed out that the costs of consultants over a five-year period between 1998 and 2002 had increased by \$391 million. That was an extremely significant increase in terms of the amount of money that we are paying to consultants, money that I think could probably be better spent paying ministry staff with full-time jobs in the public service.

While you talk about alternative service delivery models, you cannot ignore the fact that the auditor has noted that many of these folks are doing essentially ministry work. They're being paid two and three times to do it, but they're doing ministry work. So what analysis is the government doing now to determine how many of those positions should be reinstated so we stop paying consultants two and three times the value of comparable ministry staff and actually hire those ministry staff? What analysis is going on across government to determine how to deal with that particular situation?

**Ms Bouey:** We will be introducing quite shortly, as I mentioned, revisions to the procurement directives. They will require ministries to fully document the process for determining the availability of internal ministry resources prior to acquiring consulting services. They will clearly define the requirements for the assignment. They will follow an established procedure for the bids in selecting vendors and so on. But an important thing here is that they will also set out a contractual obligation to ensure a transfer of knowledge from consultants to OPS staff. So from the very beginning, when people are contemplating undertaking procurement, they have to look at what the purpose of the consulting assignment is, how the consult-



ants are going to be used and how the work will be carried on after the assignment is completed, if it's an ongoing service. We will be looking at that at Management Board in terms of business planning processes, in terms of how we deal with the approval of various stages of the more major projects.

**Ms Martel:** But I'm looking at a step even before that, which is, what is the government doing now, especially in light of the auditor's report, which clearly outlines problems, problems of not having qualified staff in the OPS? What is the government doing right now to determine what your shortfall is in terms of expertise, and should you be hiring new full-time OPS staff instead of continuing with this reliance on consulting services?

**Ms Bouey:** We are going through and looking very closely, as these consulting contracts come up, to see which ones should be continued or where it really is appropriate work to be done internally. For example, with the central agency I&IT cluster, services, Management Board, finance and the Premier's office have already made some adjustments to bring some of that work back internally. We are very conscious of looking at this in terms of whether the situation is cost-effective, whether it deals with knowledge management and all the rest of it.

One other thing I should mention, though, is that in terms of making the cost comparison, salaries to consulting services can be a bit of an apples-and-oranges comparison because there is also the issue of the benefits, and the benefits package adds another 20%, at minimum, when you layer that on. So there is a bit of an apples-and-oranges comparison there, but I think we also are very concerned about making sure we build the knowledge management and knowledge transfer into the government.

**Ms Martel:** I appreciate your comment about apples and oranges, but on page 182, there is a graph that was provided by the Ministry of Health and Long-Term Care, I assume with their approval, that did a comparison of the per diem rates of consultants and equivalent staff. This was for the Ministry of Health and Long-Term Care. The overall average per diem rates for the consultants and staff was \$847 compared to \$273 for comparable ministry staff. That's not a legitimate comparison?

**Ms Bouey:** I have no reason to take issue with the figures here, obviously. I'm sure they're correct. I think this is one of the reasons, though, that we are going through very careful processes now to ensure that we are using consultants appropriately, and that's why we will have to go through this up-front stage. It also speaks to issues that, for example, the Provincial Auditor identified around the vendor of record about second-stage competitions that we will also be doing to try to ensure we get the best prices for the quality.

**Ms West:** I just wanted to add to the previous question you had; that was the issue of what we are doing right now to try to replace, if you will, consultants with staff of the OPS. As my colleague and I noted, the most problematic area for us is in the IT area. As the auditor

has pointed out, we do have a number of instances in our ministry where there are consultants doing work that could be done by OPS staff. It's more of an ongoing work requirement. So we are working with the Management Board and the corporate CIO on an internship program, because one of the difficulties is attracting them into the civil service. There are variations in compensation and, I think, some impression that the work won't be as challenging here as it would be working with a consultant and having other options in developing their own careers.

So we are working on an internship program, we are working on targeted recruitment for IT resources so that hopefully what we will be able to do, for those areas where we do currently have vacancies and yet we have needs for work to be done in order to support programs, is attract people into those positions and keep them. It's a small but very pervasive issue in the OPS, and I think we're taking immediate action to try to deal with those realities.

**Ms Martel:** On the same issue, the auditor also pointed out that you're in this position now where you are actually hiring consultants to oversee other consultants. I mentioned the Ministry of Health and Long-Term Care in particular because there is a void of senior management that could look after these things. What are you doing to get rid of consultants overseeing consultants in the ministries?

**Mr Phil Hassen:** My name is Phil Hassen, Deputy Minister of Health and Long-Term Care. Certainly, the issue of consultants is an issue we are all concerned with. I won't go through all of the issues and statements made by my colleagues. There are times when certain projects require expertise. At that level, it requires coordination, and it's intense, it's short-term and requires the expertise that we do not have nor would we necessarily want to keep in the Ministry of Health. So we tend to hire these on a selective basis. There aren't very many of them and they certainly aren't things we're going to be pervasive on. In that case, we certainly aren't going to continue these positions for long periods of time, but they are selectively done.

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**Ms Martel:** The auditor said on page 184 that the Ministry of Health and Long-Term Care had "15 senior consultants, who charged over \$1,200 per day on average, compared to salaries of approximately \$340 per day, including benefits, that would have been paid for senior ministry employees at the equivalent level." Are those 15 gone now? Have they been replaced by 15 others? Can you tell us how many senior consultants you still have overseeing other consultants?

**Mr Hassen:** I'm going to have to check whether they're here or not. I don't know exactly whether they're here still. We used them because they were certainly required. We looked at all of the factors: the specialized expertise that they provided to the project; the short term and the complexity and the duration of it; the skill sets that are not normally found inside the Ministry of Health



or in our IT area. Again, these are typically IT projects that require the kinds of expertise that are just not available normally.

When we eventually hire public servants back, and we do that in many cases, they are not doing the same work. They are doing the maintenance of that project. Now that the system's up and running, they must maintain it. They're not building the system. Building a system in IT—and I'm not an IT expert, but I'm advised and continue to understand that this is a whole different discussion of that expertise versus maintaining the system. I think we all know that it is different work.

**The Vice-Chair:** Excuse me. That concluded the first round. We go to the government caucus.

**Mr AL McDonald (Nipissing):** I'd like to thank everyone for attending and answering questions for the public accounts committee, as the Chair stated, for our consideration of section 3.06.

I'd like to ask Deputy Minister Bouey: can you tell us what changes you've made to the procurement directives to address the concerns of the Provincial Auditor?

**Ms Bouey:** Just first of all in general terms, we are ensuring that, upfront, people are looking at why they might need to use consultants, defining the assignment properly, estimating it properly, and documenting all of that.

Secondly, we have tightened the rules for non-competitive processes so that hopefully more will be funnelled into competitive processes. People will have to document a great deal of information if they want to use a non-competitive approach.

We are introducing a second-stage requirement into all vendor-of-record arrangements. It requires, depending on the size of the procurement process, that there be some form of competition and that beyond a certain ceiling, \$750,000, the vendor-of-record process cannot be used. Very importantly, we are taking action to try and ensure better compliance. That is not in the directive itself, but we are going to be training people. There really are issues of people not understanding the requirements right now.

We are going to require ministries to provide us with those annual reports; that will be in the directive. We will be working with ministries, as I mentioned earlier, to ensure that they have sound contract controllership in place, and discussing with Management Board of Cabinet any changes that need to be made to ensure that.

**Mr McDonald:** Are these new directives airtight, or could you guarantee to the committee that revisions won't have to be made later on?

**Ms Bouey:** As I think Winston Churchill once said, "To improve is to change; to be perfect is to change often." I don't think anything's ever going to be absolutely perfect that way, but I think what we're committed to doing is to keep this under review and to make revisions as we require to continue to improve the situation.

**Mr McDonald:** By changing these directives, are you conceding that the previous measures were insufficient?

**Ms Bouey:** Frankly, we did think we had a pretty good set of rules to begin with. There were issues of non-compliance, but the Provincial Auditor has also identified some very important improvements that could be made. We take his advice seriously and as a result want to make the changes that will make the improvements to address the concerns he has identified.

**Mr McDonald:** Why do we use consultants in the first place? Why don't we just hire staff to do the job?

**Ms Bouey:** In quite a few instances we are now engaging in some kinds of work, especially as we get into more and more e-government-type activity, where we didn't have internal expertise to nearly the degree we needed to basically design these new approaches. So we use the consultants when we have areas where we need the high-end expertise and we're in a new business process and when our staff don't have those skills or they don't have it in sufficient quantity for the sort of peak-load situation of developing, as I mentioned, for example, with respect to the integrated financial information system.

Sometimes, as my colleague has mentioned, we also use them to supplement the work done by staff just when we have vacancies that for a while we can't fill, and we do have from time to time labour market situations that mean that all those resources aren't available. I think the Provincial Auditor has rightly pointed out that we may not have done this in an ideal fashion, and we're looking to improve how we address that in the future.

**Mr McDonald:** What steps have the Management Board Secretariat and other ministries taken to tighten up their compliance with these corporate directives?

**Ms Bouey:** In Management Board Secretariat we have some, I'd say, large business areas in that we have the iSERV area that provides the infrastructure on networks and processing to government ministries and that kind of thing; we also have the Shared Services Bureau—two big entities where we do use consulting services. In both those areas we have been moving over time to strengthen the controllership in place, particularly in iSERV. We are also doing a transition at Management Board as a ministry controllership unit where we will be keeping track in the same way as my colleague has mentioned about the consulting contracts we're entering into and how they're being administered in the chief administrative officer's area.

**Ms West:** Perhaps, Mr Chair, I can comment as well from a ministry perspective. I did mention a few things that the Ministry of Public Safety and Security is doing as well to ensure better compliance with the directives. I mentioned particularly the contract management database and other tools that will help us to track contract information, including renewals and extensions. That information will also assess the compliance with procurement directives, the delegations of authority, the payments of invoices against contract ceiling prices. That contract management base is about 75% complete in the ministry. I expect it will be fully deployed within that very large ministry by the spring of this year. But in addition to the



tool, as I mentioned before, certainly one of the critical needs is to make sure that our managers are properly trained and aware of what the directives are. So we do have a training plan being carried out in the ministry for managers. We've improved the oversight processes, again, as I mentioned, both within the CAO's office improving controllership, which is part of Management Board's direction to us a couple of years ago as well in terms of improved controllership, but also, as I mentioned, within our information technology division ensuring we have improved controllership there.

Within the justice technology services division, which was the focus of the Provincial Auditor for the Ministry of Public Safety and Security, a number of steps have been taken. As I mentioned, we've centralized contract controllership within the division reporting to the CIO. The assistant deputy minister hired a manager to oversee the consulting contracts in compliance with the directives. The CIO requires a case-by-case analysis of the business needs supporting the need for the consulting resources, the specific deliverables, payment terms and the means of ensuring knowledge transfer on completion; monitors the use of the consultants; and tracks the procurement, approval and payment processes to ensure the issues are dealt with, as well as trends identified and properly addressed.

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We noted that vendors must list any former employees who work on the project. Managers must also complete a post-engagement review to assess the performance of the consultant against the contract deliverables.

Obviously, Management Board Secretariat has been working with the ministries as they've started to plan and develop the directives and changes to the directives. We've already started a plan to communicate those changes to the directives to the managers and prepare to train appropriate staff on them.

I think we have gone a long way to shore up both our capacity and attention to the directives. Obviously there is always need for improvement, and we're committed to remain vigilant in that regard.

**Ms Bouey:** If I could add two other things, we also have had the Shared Services Bureau develop a checklist that gives ministries, including ourselves, a proper list of processes they should have gone through and files they should have documented and so on. We are doing some spot-checks with feedback to the program areas about the documentation.

**Mr McDonald:** I'm going to change gears a little bit here. Can you tell me what opportunities exist for small business to do business with the government of Ontario?

**Ms Bouey:** Our competitive procurements, the larger ones, are generally advertised on the MERX system. Further, one of the reasons we have gone for the vendor-of-record arrangements is actually to make the process less onerous for small business in that that way they can essentially apply for a series or a number of different consulting assignments over a group of ministries to be able to be the supplier. That's part of the thinking behind

that. That way they can basically be qualified once and the second-stage process is less onerous.

**Mr McDonald:** Are these procedures that were put in place going to make it extremely difficult for a small business to compete?

**Ms Bouey:** We have been trying very hard to get the appropriate balance here so that is not the case. That's one of the reasons why, as I say, we have gone for things like the vendor-of-record arrangements, to make it less onerous, so they don't have to do it a whole bunch of times. It's a very important thing for us.

**Mr McDonald:** If I could just ask Deputy Minister West, could you tell the committee why you think you're getting good value for the taxpayer even though the consultant rates are higher than what we would pay staff?

**Ms West:** As I've mentioned earlier, when we use consultants, we do use and should be using them for particular purposes. One of the main reasons for using them—I'll use the IT example again—is when we need a specific expertise or we have a short-term need or an immediate need to deal with a particular project development or innovative response. We're trying to use the consultants selectively for that purpose, not needing to build that particular capacity into the ministry itself but using them for those short-term, specific expert requirements.

I have to say though, again, that we recognize that we haven't been as vigilant in the past as we should be, and we intend to do so. I think documentation as well will assist us. Required documentation, again, as Deputy Bouey noted, will assist us as well in the future to ensure that we are getting good value for money, that we are choosing to use consultants when we really do need to use consultants and that to the greatest extent possible we try to build that capacity, when it's required for ongoing purposes, into the ministry.

**Mr McDonald:** I have one more question, and I understand Mrs Munro and Mr Dunlop have some questions too. I wonder if we can bring up Deputy Minister Hassen again. I just wanted to further a question that Ms Martel had brought forward.

Mr Hassen, I understand the quality assurance best practice project required consultants to complete the project properly and on time. Could you elaborate on why the Y2K project was so successful in your ministry?

**Mr Hassen:** I think there are a number of issues. This is an example where one begins to look at and analyse the different ways in which you can solve the problem, Y2K being a very unique problem to the world, frankly, as you know, and certainly to us. I think it required a fairly highly intense, short-term, highly skilled group of people to undertake to make major and vast changes in the system to ensure that we could continue our operations in a whole number of areas. We used that project to ensure that, as we looked at this thing, we looked at the alternatives available to us. In securing the specialized services, we were able to deliver on time and in the budget that was required of us because we were very targeted in how and when we used consultants, ensuring



that what knowledge was required to be transferred was transferred in the stated strategy of the Y2K project. It was not possible to do it within term because of the enormous technical knowledge, which was just not available. In fact, as many of you may know, the demand for that kind of knowledge was so significant. But we were able to achieve it because we were able to get contractors who were consultants who met all of the requirements, both internally through the Management Board and externally.

I think it was a successful project. I think most people would say that and would say that we achieved far greater results than trying to do it through, say, a single RFP contract, because the nature of the problem was not understood by very many as we went through it and would have required complex changes to the RFP and probably would have cost more. It's like when you do a building project: the more change orders you have, the more cost there is. We tried to minimize that, and so we were able to manage that. So from our point of view it was that specialized knowledge of the targeted and specific requirements that made it, in principle, successful to us.

**Mr McDonald:** I'll turn it over to Mrs Munro.

**The Vice-Chair:** Mrs Munro, there's about five minutes left in this segment.

**Mrs Julia Munro (York North):** Thank you very much for coming here today and being available to answer some of our questions. I guess for most of us, the notion of procurement means that the government simply purchases something. As our conversation has developed this morning, it seems to me quite clear that what we're talking about as the object of this procurement is in fact expertise. That seems to have taken the front and centre role in the area of procurement. It seems to me if that is the case, then obviously there are some changes required in terms of how best to manage. We're not talking in the same way about the acquisition of tangible objects. We're talking about levels of expertise.

I know you have made reference, and certainly we on the public accounts committee are aware, that procurement has always been a very thorny and difficult issue to deal with—by governments, by the way, of all political stripes. But I wanted to ask you a couple of questions with regard to that changing nature of procurement and where you see the consulting expertise shifting over a relatively short period of time, I believe.

**Ms Bouey:** Let me just give you some examples of where we have been using consultants and the kinds of procurements. I think we've talked a lot about some of the I&IT solutions that we've been using. I think that will continue to be the case as we try to, first of all, make these services friendlier to our citizens and use multiple channels and integrate the information from those channels so that people get the service with respect to them, not what services we might want to deliver to them.

We have used, for example, Ontario Business Connects networks, which have self-help workstations built on a technology that was leading edge in 1994. We have

about 100 of these self-help workstations still operating, but to maintain them, we use a consultant who knows the technology and who is accountable for the results. That way, staff focus their resources on the next steps for the Ontario Business Connects, the Internet-based technologies. That's an area where we also are using consultants, rather than having to spend time and money on training to use a technology that, in a while, we won't be using any more.

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Interestingly enough, there's another example where we have to get consultants that relates to some of our very old systems. We have legacy systems that are written in COBOL, and there is now a worldwide shortage of COBOL programmers. It was a programming language that certainly I remember was being taught in university when I was there in the late 1960s and 1970s. For example, our payroll system is written in COBOL. I believe our driver's licensing system is written in COBOL or some variant thereof. In order to deal with the updates and so on that we need to do to those, this is a specialized skill to access these resources. Meanwhile, we have to think about where we take these systems for the future, because at some point there aren't going to be a whole lot of programmers around. Secondly, as we've seen recently, as we've tried to implement the changes from the recent round of collective agreements, it's very time-consuming and difficult to find ways to modify those systems.

We are moving very much in the direction of e-government. That requires a lot of knowledge about how to use the Internet and leading-edge technologies and how to weave those things together in a cost-effective way that's friendly to the consumer.

**The Vice-Chair:** One very, very quick question.

**Mrs Munro:** That was a quick five minutes.

**The Vice-Chair:** It was.

**Mrs Munro:** Since I only have a short opportunity, I really wanted to ask you, then, how you are working with the kind of expertise that you are able to gain through this process with regard to, first of all, international achievements that you mentioned you have made; and, secondly, the opportunities it provides for the future of the OPS in terms of attraction and retention.

**Ms Bouey:** Just in terms of some of the international awards, I had mentioned the Commonwealth Association for Public Administration and Management gold award for innovation that had to do with the connected way we work together using technology. We are much further ahead than other jurisdictions on that. This association gives awards biennially, and this one is in addition to a 1998 gold award for Ontario Delivers that related to earlier e-government efforts with respect to Ontario Business Connects as well and Service Ontario and our government information centres. A silver award was awarded to us in 2000 as one member of the Citizen-Centred Service Network for Citizens First research. Last year, we came third out of 60 for the Bertelsmann Foundation balanced e-government medal. This is a foun-



dation from Germany, and we were ahead of the government of Canada, I might add.

**The Vice-Chair:** Thank you. I think I'm going to have to move on; we're a couple of minutes over. We'll move on to the Liberal caucus.

**Mr Dwight Duncan (Windsor-St Clair):** To Ms Bouey and Ms West, thank you for attending this morning. I listened very carefully and made notes on what you said in your opening remarks. You said your intention is to have a clear, transparent process that gives public servants greater certainty as to how these procurement issues happen. The auditor told us this morning that the issue of enforcement is central to this and, frankly, nothing you've said has assured me that there will be any improved enforcement.

I'd like to relate it back to two specific situations which we have raised in the Legislature. One is Enterprise Canada and the other is MFP. How is it that, in the case of Enterprise Canada, contracts of the size that we have well documented can be awarded in an untendered fashion? Is there interference from the political offices? How is it that you, as deputy ministers, can allow a situation where 11 ministries are paying a specific consultant to advise them who is engaged by 113 non-public interests, that is, private sector and broader public sector interests, all in untendered contracts? How does that happen?

**Ms Bouey:** Just let me find my notes.

**Mr Duncan:** One other question, if I can, while you're looking for your notes: have you consulted the Integrity Commissioner with respect to the new directives you're putting out? Yes or no, has the Integrity Commissioner been consulted?

**Ms Bouey:** No, the Integrity Commissioner has not been consulted.

**Mr Duncan:** How, then, can you be prepared to say today, as you said in your opening statement, that in fact there is a directive ready? And I can't understand why it's not publicly available yet. This issue has been a matter of record for some time. You were in possession of the auditor's recommendations for some time. How is it that you can come here today and say to us that a directive is ready if you have not consulted the official who is in charge of the lobbyist registration? I don't understand how that is.

**Ms Bouey:** If I could clarify, in terms of the conflict-of-interest elements, that is the reason the directive is not ready today, because we are still working on those.

**Mr Duncan:** You said to us today that it's nearly ready.

**Ms Bouey:** I said it's nearly ready. I didn't say it was ready.

**Mr Duncan:** How could it be nearly ready if you've failed to consult the Integrity Commissioner? He has jurisdiction, he has carriage of the Lobbyists Registration Act. How could it possibly be near ready?

**Ms Bouey:** I'll take that point under advisement. The directives—

**Mr Duncan:** I wish you would, and if I could, I had a few other questions with respect to this.

Your various ministries have been very good at forensic audits of school boards, setting up welfare snitch lines, seizing control of public hospitals. How is it that at this point you cannot table before us today a new directive that will clearly spell out conflict of interest as between consultants that your ministries are paying in an untendered fashion and those same consultants representing private interests? One of the examples I raised in the Legislature, which I'm sure you're aware of, is the question of the Ministry of Energy, which engaged Enterprise Canada to consult on a communications strategy around deregulation at the same time that Direct Energy and National Grid were paying the same consultant to advise them on the same issue. How is it that we can get forensic audits done, school boards, we can seize hospital boards, we can respond to commissions with tens of millions of dollars of money, yet we cannot, in the span of close to three and a half or four months, come up with a very clear conflict-of-interest guideline that could be submitted to this committee and hopefully to the Legislature before an election to debate it? How does that happen?

**Ms Bouey:** I think we've been working very actively on the conflict-of-interest provisions. I think when the issues raised around that particular firm came up and we looked at our conflict-of-interest provisions, there was a weakness identified in terms of the way they dealt with lobbyists. As I indicated in my opening remarks, the Premier and the Chair of Management Board are very actively engaged with—

**Mr Duncan:** The problem we have is that we have nothing in front of us. You're sitting there telling me something and, frankly, I can't accept it on face value.

Let me ask you a couple of more specific questions to get at the root of the matter. Will you release to me and to this committee all memoranda, all letters, all documentation that came to the public service from exempt political staff to your various counterparts in the ministries that Enterprise Canada dealt with with respect to the tendering of public contracts—or the granting, I should say; they weren't tendered—by Enterprise Canada? Will you release that information?

**Ms Bouey:** If I could, just to clarify, Enterprise Canada Group has a contract with the Advertising Review Board to be part of the pool of public relations companies. Companies in this pool are assigned projects across the government by the Advertising Review Board. They were contracted into that pool after an extensive—

**Mr Duncan:** Excuse me. I asked if you would release information—letters, memoranda—and I will put this in a freedom-of-information request. But I'm asking you today in the interests of expediting debate on this extremely important matter; that is, the conflict of interest, or alleged conflict of interest, as between untendered consultants and the public service of Ontario. Our interest here is in defending the integrity of the public service of Ontario. Will you release the various information that we request? Yes or no?

**Ms Bouey:** If I might, I don't have knowledge of that information, so I can't—

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**Mr Duncan:** If that information exists—and I'm surprised you wouldn't. If you're reviewing conflict of interest and untendered contracts and you're ready to do a policy, you're suggesting to me you don't have information of that nature available?

**Ms Bouey:** I'm afraid at this point I have no knowledge of the information.

**Mr Duncan:** So you won't answer. You have no knowledge.

**Ms Bouey:** I'm prepared to go back and look into the matter and—

**Mr Duncan:** Will you release the information that you find?

**Ms Bouey:** I cannot answer that question without having knowledge of the information.

**Mr Duncan:** Cannot answer the question. OK.

The other issue that both of you raised—and I think it's fortuitous that we have the new deputy of public safety here today—is the question of MFP. You have repeatedly referenced IT. The auditor did in his report. The auditor, two years ago, did his report on the question of long-term leaseholds. I explored these issues with him in camera before you came here today. Was MFP ever on the vendor-of-record list?

**Ms Bouey:** Yes.

**Mr Duncan:** Was it recently removed?

**Ms Bouey:** If I could just explain—

**Mr Duncan:** Was it recently removed, yes or no?

**Ms Bouey:** Yes, it was recently removed.

**Mr Duncan:** When was it removed?

**Ms Bouey:** I don't have the exact date—

**Mr Duncan:** I believe it was in January of this year. Is that correct?

**Ms Bouey:** I would have to verify that.

**Mr Duncan:** Why was MFP removed—

**Mr McDonald:** Mr Chair, on a point of order—

**Mr Duncan:** Stop the clock, please, Mr Chair. This is an attempt to stall the legitimate questioning that we have.

**Mr McDonald:** Chair, it might be legitimate questioning but he's not allowing her to answer the question. He keeps interrupting halfway through her answer. I think with all due respect to the individuals who have come forward to answer the questions—I'd like to hear the answers to the questions that he's putting forward as well. I'm just asking that some respect be paid to the individuals trying to answer the questions.

**Mr Duncan:** Mr Chair, I think respect should be paid to the taxpayers and this Legislature. We are given 20 minutes to ask a series of questions. I'm trying to get short, concise answers.

**The Vice-Chair:** We'll continue.

**Mr Duncan:** Was MFP removed from the vendor-of-record list in January of this year?

**Ms Bouey:** No, MFP was removed in November.

**Mr Duncan:** Was that as a result of the preliminary findings of the Toronto inquiry?

**Ms Bouey:** No, it bore no relationship to that.

**Mr Duncan:** Have you reviewed the statement of claim by the city of Windsor with respect to their dealings with MFP?

**Ms Bouey:** We have been monitoring—  
*Interruption.*

**The Vice-Chair:** Excuse me. If I could just say once again, as I did yesterday, please mute your telephones.

**Mr Duncan:** Talk about rude.

**The Vice-Chair:** In fact, I would just ask that everyone, when they enter the room, turn them off. Thank you. Continue.

**Ms Bouey:** If I could note that we have been monitoring the various inquiries, because we are always looking to improve our procurement processes and so on.

**Mr Duncan:** But you did remove them finally in November of last year, is that correct, from your vendor of record?

**Ms Bouey:** That's correct.

**Mr Duncan:** Have you yet released any contracts the province has with respect to MFP?

**Mr McDonald:** Mr Chair, on another point of order: In your opening remarks—with all due respect, the committee is dealing with section 3.06, and I would just ask if we could stay on that section. That's why we're here today, that's why all these people are here today, to deal with the section.

**Mr Richard Patten (Ottawa Centre):** It's within the section.

**Mr McDonald:** When I checked with—

**Mr Duncan:** MFP was a consultant, Mr Chair.

**Mr McDonald:** Chair, I'm just asking, when I checked with the Provincial Auditor earlier regarding 3.06, there were some things that the honourable member opposite brought up that weren't contained in 3.06. So I guess I'm asking you, if the direction of the committee was to deal with section 3.06, can we just stay focused on that section?

**The Vice-Chair:** There's really no direction of the committee. We're dealing with the Provincial Auditor's report, yes, and we're dealing with consulting services. That's a relatively broad subject. Quite frankly, if the deputant doesn't want to answer or can't answer or doesn't have the information or it's outside the scope, the deputant can tell the questioner that.

**Mr McDonald:** With all due respect, Chair, you said when we started the meeting that we're here to consider section 3.06.

**Mr Patten:** It's within that—consulting services.

**Mr McDonald:** So it's my understanding that we're dealing with 3.06. The member opposite is going outside that section.

**Mr Patten:** He is not.

**The Vice-Chair:** I really don't think it's a point of order. We'll continue with the questioning. I'm sure the deputant and the questioner can determine the parameters, and the rest of us will just listen.



**Mr Duncan:** Just as a matter of record, for the member opposite, MFP is the largest IT consultant used by both of these ministries before us. The government has paid them more than \$1.2 billion in lease payments since 1996. In the case of public security, it's for police radios. Are there escalating clauses on the interest charges in those agreements?

**Ms Bouey:** If I could have a moment to respond to those items one by one, in terms of releasing the contracts, I believe contracts were released under FOI procedures.

**Mr Duncan:** We were declined those contracts under FOI. If they have been, I would ask you to please provide them to us.

**Ms Bouey:** I'll look into that.

**Mr Duncan:** Because the acting Premier at the time—I believe it was Mrs Witmer—said that in the House, and in fact we were declined those contracts.

**Ms Bouey:** I can indicate that perhaps it wasn't to you directly, sir, but we did release MFP-related contracts, and I signed off on doing the MBS ones.

**Mr Duncan:** So you would release all of those contracts to us to peruse?

**Ms Bouey:** They're hundreds of pages.

**Mr Duncan:** I understand that.

**Ms Bouey:** And I believe—

**The Vice-Chair:** There's about three minutes left.

**Mr Duncan:** Will you release those contracts?

**Ms Bouey:** We will release those contracts, subject to some issues around commercial sensitivity.

**Mr Duncan:** What kind of sensitivity is that? My understanding is there were third party blocks on the FOIs that we put up and that those likely came from one of the signatories to the contract.

**Ms Bouey:** Just to remind people, there are some sections that did deal with the review of our contracts with MFP. Section 15 does provide, under the Freedom of Information and Protection of Privacy Act, an exemption for information received in confidence from another government. So we did sever one—

**Mr Duncan:** You severed the relationship with MFP? Did I understand that correctly?

**Ms Bouey:** We have established a new corporate vendor of record. MFP is no longer on that list. Ministries are—

**Mr Duncan:** What about the outstanding contracts with MFP?

**Ms Bouey:** Mr Chair, if I could finish my earlier answer—

**The Vice-Chair:** Mr Duncan, please.

**Mr Duncan:** With all due respect, Mr Chair, I'm trying to ask—we were given 20 minutes. I'd just like to ask, have you—

**The Vice-Chair:** Just to intervene here for a second, the deputant should have the opportunity to finish. But I would say too that perhaps, if this would be of some assistance, the deputant should also keep the answers as succinct as possible.

**Ms Bouey:** I will try to do so, sir.

**The Vice-Chair:** Both questions and answers. There's about two minutes left.

**Ms Bouey:** There are outstanding contracts in several ministries with MFP. However, each of those ministries is doing any new computer leasing under the new corporate vendor-of-record arrangement.

**Mr Duncan:** Have any of those ministries abrogated or otherwise gotten out of or tried to get out of contracts with MFP?

**Ms Bouey:** The only way that they have been getting out of those contracts is according to the terms and conditions of the contracts.

**Mr Duncan:** Why was MFP removed from the vendor-of-record list in November of this year?

**Ms Bouey:** There was a second-stage competition of the type we've been talking about on vendor-of-record arrangements by one IT cluster that took place. MFP, as with the other vendors of record, had signed a master agreement. When it came time, they were the top-rated vendor in that particular circumstance. When it came time to fulfill, they chose not to do so. As a result, since they were unwilling to fulfill the obligation, we removed them from the vendor of record.

**Mr Duncan:** Are you in any legal situations right now with MFP?

**Ms Bouey:** Not to my knowledge.

**Mr Duncan:** Have they threatened action against the province?

**Ms Bouey:** No.

**The Vice-Chair:** One minute.

**Mr Duncan:** Had any of your senior officials been entertained by senior officials of MFP between 1995 and 1998, as part of MFP's desire to get consulting contracts for the management of computer leases, radio leases, with the OPP, I presume? It comes through your ministry. In that time frame, had any of your officials been entertained in any way, shape or form by MFP?

**Ms Bouey:** I think you can appreciate that since one doesn't keep track of people's off-hours, I could never speak with perfect assurance on that.

I could note one situation that has been in the public domain, related to Tony Miele of the Ontario Realty Corp. Mr Miele is not accountable to me, but we have discussed the situation and he has consented to allow me to share information. During his tenure ORC has had no business dealings with MFP. He did attend some lunches, dinners and one or two hockey games with officials of other organizations, including MFP. With respect to media reports that indicated he was among the passengers to Montreal on an aircraft to attend a hockey game, this information is incorrect. Mr Miele denied that invitation.

**Mr Duncan:** Is that why ORC was not here—

**The Vice-Chair:** Thank you, Mr Duncan.

Now if I might just establish where we're at at this time. Thank you to everybody involved in this session. Essentially, there is no time limit on the committee's meeting. In other words, we don't have to adjourn at a specific time. If in each of the caucuses you wish more

time with the folks with us today, certainly you have that. It may be a bit of a question as to how much time because we can continue through the lunch hour if, for example, we were going to go another round—I might suggest that those rounds be 10 minutes each—and this can continue until we're finished. It's kind of a question of whether the committee wants to break for lunch or whether we should just continue right on through, because we do have a lot of people with us at this time. Any suggestions?

**Mr Duncan:** Break for lunch, Mr Chair, and we would like to continue the line of questions after.

**The Vice-Chair:** So we will continue this afternoon. We will then break for lunch, may I suggest for an hour, and then we reconvene at 1 o'clock. This committee stands adjourned until 1 pm.

*The committee recessed from 1151 to 1300.*

**The Vice-Chair:** The standing committee on public accounts will continue its review of the 2002 annual report of the Provincial Auditor and, specifically, consideration of section 3.06, consulting services. As I suggested this morning, and I look for the consensus of the committee, we will go into a second round of questioning and at this time we'll have 10-minute rounds and see how the afternoon goes. Do I have consensus on that? Does that sound fine?

*Interjections.*

**The Vice-Chair:** We then will continue with the NDP caucus and Ms Martel.

**Ms Martel:** We're going in rotation?

**The Vice-Chair:** We're going in rotation.

*Interjection.*

**The Vice-Chair:** Well, it's the start of our second round. We finished with the Liberal caucus. Anyway, trust me.

**Ms Martel:** Thanks, Mr Chair. Deputy, when I finished my last round of questions, it was around issues of trying to replace consultants with OPS staff. The auditor in his report provided us with the list of consultants and their staff in the six ministries that were reviewed by him. I'm wondering if you have similar information with the rest of the ministries in the Ontario government—that is, the breakdown of the number of consultants and the number of staff attached to those consultants in the other ministries that were not reviewed by the auditor.

**Ms Bouey:** No, I do not.

**Ms Martel:** Can you provide the committee with that information?

**Ms Bouey:** I can take that under advisement and look into it.

**Ms Martel:** That would be very useful because some of the ministries that have fairly small numbers of staff in comparison, for example, with the Ministry of Health appear to have quite a large number of consultants and their staff still attached in that ministry. I'd be interested to see that breakdown.

I also wonder if it would be possible for you to give us a breakdown of the number of consultants and their staff matched against the number of OPS staff in the ministry,

so that you extend the information the auditor provided us not to just include the consultants, but if you could tack on as well what is the number of full-time OPS staff in that particular ministry.

**Ms Bouey:** Again, I'll take that under advisement and see what can be provided. I would note, though, that when a consultant bids on a project and indicates the number of people they'll be using, they don't always use those people anything close to full time. Sometimes they are using them just for one particular piece of work within the assignment and it may be a matter of half a day or something of that ilk, depending on the assignment. Normally, when we count OPS staff, we count them as full-time equivalents and I don't think we'd have the data established that way. Our systems just don't allow us to keep track of it that way.

**Ms Martel:** Well, I'm looking at the chart on page 181, which is titled "Consultant use at ministries: 2001/02." It lists four ministries, the source of the data being Management Board, Health and Long-Term Care, Natural Resources and Public Safety. If you could refer to that chart, can you tell me what the basis was for the information that was given? If you look at Management Board, the number of consultants is 170, the number of IT staff is 540, for a total of 710; consultants and staff at Management Board for the year 2001-02.

**Ms Bouey:** Yes, I see the chart. I don't have the basis for the data there. I presume it was with respect to some specific assignments. I'd have to look into that.

**Ms Martel:** I wonder if the auditor can recall what that was based on?

**Mr Erik Peters:** The chart?

**Ms Martel:** Yes. Was it based on full-time equivalents?

**Mr Andrew Cheung:** I'm not sure. I think it could be as at a certain day as well, as at March 31 or something, 2002.

**Ms Martel:** March 2001 to March 2002?

**Mr Peters:** And you're quite sure they're not FTEs?

**Mr Cheung:** No, they're not FTEs.

**Mr Peters:** They're not FTEs, not full-time equivalents.

**Ms Martel:** If we could have the basis upon which those numbers were arrived at, that would be useful. What is the basis, then, for the numbers if they're not FTEs?

**Mr Peters:** Head counts.

**Ms Martel:** Just over the period of the year.

**Mr Peters:** At a point in time.

**Ms Martel:** Let me ask about consulting services generally. I understand that you're now going to make it a requirement for ministries to file their annual reports, which would include the consulting services used over the period of a year.

**Ms Bouey:** Yes.

**Ms Martel:** What do you have on file at present with respect to the number of consulting arrangements per ministry?



**Ms Bouey:** At this point, we would not keep systematic files on that. Some information would be available through the various financial systems, but the way it is compiled is on the basis of payments, so it's a little hard to deal with how—it depends on the timing of the payments and so on. So we don't have systematic records right now.

**Ms Martel:** So you're not in a position to tell the committee, for example, how many contracts there are across ministries at this time.

**Ms Bouey:** That's correct. I'm not in that position.

**Ms Martel:** You're going to be in that position when they have to file the annual reports.

**Ms Bouey:** That's correct. I think we're also looking for the integrated financial information system to be helpful when it's fully implemented in that regard as well.

**Ms Martel:** When that is implemented, what will the fiscal year be as a starting point for that information?

**Ms Bouey:** I believe that the justice ministries are in the last wave, in the fall of 2004, so I think the first full year that we would have information would be 2005-06. However, we will be working through annual reports next year.

**Ms Martel:** So by the end of fiscal 2003-04, we should have an idea of how many contracts there are per ministry?

**Ms Bouey:** There would probably be a bit of a lag because the ministries would have to submit the report after the close of the year, but yes.

**Ms West:** Maybe I can just supplement that question. I think Deputy Bouey was referring to the IFIS system in particular. That will be a helpful tool as well to collect this information. I mentioned earlier that the Ministry of Public Safety and Security is putting in place a contract management database, which we're hopeful will be fully populated within the next few months. I suspect that, as with other ministries, they're putting in those types of tools as well. We would be in a position to be able to provide that sort of information earlier. Obviously there would be a more rigorous system through IFIS as well and through the mandatory reporting. We are trying to get a handle on both our use of consultants, to ensure that we have better control of them, and as early as we can do that as possible, we will, and when Management Board requires the annual report, then we'll be better prepared to do that as well.

**Ms Martel:** I have questions on two contracts that were referenced by the auditor. The first one was with the Ministry of Health and Long-Term Care. The concern that was raised by the auditor was that they were multi-million dollar information technology contracts that did not follow the requirements for an open tender process. The ministry's approach was to subdivide the tender into smaller assignments, and then the consultants were selected from the VOR list. The one that I'm particularly interested in has to do with the Smart Systems for Health Agency, a transfer payment agency that I gather cabinet approved the establishment of in October 2000. The

auditor reported, "At the time of our audit, the ministry had yet to establish the agency and anticipated that it would be established by September 2002." My particular concern was that the ministry had begun development of the network and was engaging consultants from the VOR list. As of March 31, 2000, they had nine full-time staff. In addition to the nine full-time staff on the project, there were 65 more consultants and the per diem range is quite large, from \$435 to over \$2,100. Can you tell us, Deputy, what the status is of this particular contract at this point in time? And, in light of the auditor's comments, have you changed your method of procuring your consultants for this particular contract?

**Mr Hassen:** I think Smart Systems for Health is a really critical piece of work that we're doing in health, as you probably know. It's really the backbone of our health system in terms of an information system, and it will be really critical to our success in ultimately making it viable.

In that regard, Smart Systems for Health has now been set up as an agency. It's now beginning the transition into hiring people for those positions where it can. It may selectively use consultants, but right now the whole strategy is to see how many people we can move into the staffing pattern for that agency. So that work is being done as we speak.

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**Ms Martel:** For the consultants you still continue to have on this project—maybe you can tell us how many—have you responded to the auditor's concern, which was essentially that you were using the VOR list, which would allow for per diems to be paid, instead of a fixed contract for work to try to lessen government costs? Have you changed the process by which you're hiring these consultants for this project?

**Mr Hassen:** The issue as I understood it, and maybe I can be corrected if I have it wrong, was in part that we were breaking down the contracts into parts that were less than 500,000, which might have otherwise as a whole contract been RFPed, signed. The time, I would say first of all, that some of the parts require—they're very specific projects and you can't break it down. The other is, you have to break it down into its pieces. Some of the parts have to be broken down as pieces.

The difficulty is that I think we were interpreting what we thought was a project, and what the auditor was attempting to do was to say there should be more integrity to having the whole thing contracted out. We're having to modify some of the ways in which we do this, because it clearly was a difference of our understanding. We accept that there was a difference of understanding on some of them. On other parts of it in fact we will continue, because it is a defined project.

So there are two things going on here. One is the defined projects and ensuring that we are properly following the rules as they are described to us by Management Board and, secondly, the issue you're describing, which is that we probably were misinterpreting how this



project should be done and that we should have RFPed some of the larger ones. We will do that in the future.

**The Vice-Chair:** Ten minutes go by rather quickly. We move to the government caucus. Any questions?

**Mr McDonald:** I have some questions for Mr Hassen, if I could. Mr Hassen, could you tell me a little bit about Smart Systems for Health?

**Mr Hassen:** Yes, I can probably begin it. If you would like more than what I'm going to provide you, I'd be happy to have one of my staff assist me on that.

Smart Systems for Health is being set up to be the third party to manage the databases and the infrastructure required to manage databases for the entire provincial system for the health of people. So the criticalness of privacy, for example, is critical to us. It's vital that we have it be the best system in the world. It can't be compromised, because privacy of people is involved. Therefore, for example, we've hired a consultant for that who is internationally recognized. He does chair the international group that is undertaking privacy as its subject matter. So the standard we have for this is far above what you might have in any other situation. It's not just information; it's personal health information. I've certainly toured the beginning of the facilities. The data centres will be highly restricted and protected against any violation, whether it's physical or electronic, so that the data are protected.

The other is that the agency has been set up to ensure that it is somewhat removed directly from government so that people see it as having the integrity of privacy for them. If I can describe an analogy, when building a building or subdivision, all the stuff that goes underground, all the pipes and everything that eventually connects all the houses, is a lot of cost and it needs to be done before you can actually begin to connect. That's what Smart Systems for Health's responsibilities are, in a simple way, if I may. It's obviously much more sophisticated than that. It eventually is to set standards so that we can connect all the hospitals and all the physicians to support primary health care reform, CHCs and laboratory reform. There is a whole series of events that will take place as an adjunct to this particular service.

**Mr McDonald:** I just have one more question, so I don't know if the members of the committee and maybe Ms Bouey—just to follow up on some of the questions one of the members of the committee was raising regarding MFP, I wanted to go back and do a little research to see what this was all about. When I went back to research our public accounts of Ontario, I see that MFP has been working with the government since 1988. Are you aware of that?

**Ms Bouey:** I believe it's either 1988 or 1989.

**Mr Neil Santance:** Neil Santance, director of procurement policy, Management Board Secretariat. Yes, that is correct. MFP was first engaged by the government in 1989, I believe.

**Mr McDonald:** I see it's McLeod and Kerrio. I guess they were hired to do something with the MNR?

**Mr Santance:** I believe it was to provide lease financing for servers and other information technology equipment.

**Mr McDonald:** They worked with Comsoc as well. It looks like it's about \$2 million here.

**Mr Santance:** Yes, through a competitive process that was run in 1994, MFP was selected as a leasing vendor for the Ministry of Community and Social Services at that time and was the leasing vendor for that ministry for a number of years.

**Mr McDonald:** I see right through here—I'm looking at fiscal 1990-91 right through to 1995—they were employed by the government of Ontario, or were they the consultants for the government of Ontario at the time?

**Mr Santance:** MFP provided lease financing services to the government of Ontario and also provided what are described as value-added services for installing computers, configuring computers and removing them at end of lease, but was not a consultant per se.

**Mr McDonald:** It looks like the total expenditure here from 1990 to 1995 was about \$94 million.

**Mr Santance:** That is correct in terms of our research, yes.

**Mr McDonald:** So they've had a working relationship from 1988 forward?

**Mr Santance:** In 1989 I believe they first engaged with the Ministry of Natural Resources, and through a competitive process were selected as a lease financing company by the Solicitor General in 1993, and subsequently selected in 1994, through a competitive process, by the Ministry of Community and Social Services. So yes, through the early 1990s, through a number of processes, MFP was a leasing company. Subsequently, GE Capital became the corporate vendor of record in 1996, and after that, EDS Systemhouse also became a leasing company throughout the late 1990s.

**Mr McDonald:** Is MFP dealing with the government of Ontario at this point?

**Ms Bouey:** MFP is dealing in terms of contracts that were already existing. For anything new, that is covered under the corporate vendor of record, which now is mandatory and has been since last year. As a result, since they are not on that corporate vendor of record, there is no new business going to them.

**Mr McDonald:** Just maybe to further my point, the records I've got, going back into the archives for public accounts, show the MNR hired them back in 1988 and 1989.

**Ms Bouey:** Yes.

**Mr McDonald:** So that's when they first—

**Mr Santance:** Yes. I believe that was for servers.

**Mr McDonald:** OK. I don't know if the committee has—

**The Vice-Chair:** Mrs Munro.

**Mrs Munro:** I would like to come back to a question that I had begun to raise in the last round, and that has to do with the issue that has been raised about the importance of transfer of expertise and transfer of knowledge. I wanted to ask you about the way in which you see that



transfer taking place and how it fits in with the strategy with regard to attracting and retaining members of the public service.

**Ms Bouey:** That is something we are very concerned about. We are doing a number of things. I think my colleague mentioned, for example, that we are attracting interns in terms of getting them engaged in the IT and electronic service delivery, just right out of school or shortly thereafter.

We are generally looking at ways where we can take our existing staff and enhance their skills in areas like project management, knowledge management and a host of other things that we need and are continuing to need on a greater basis. We're in the process of introducing a new category to staffing that was enabled under the recent amendments to the Public Service Act called term classified, which will allow us to hire staff on a time-limited basis, but it's different than unclassified staff because there is the ability to allow these staff to have benefits very similar to those that the classified staff receive.

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We are generally looking, as projects come forward corporately—and I'm sure now the ministries are as well—at how these are being resourced to ensure that we can sustain the projects that come out of it, the ongoing work that comes out of it in terms of having the knowledge and skills in place, that that knowledge is transferred while the project is under development. I think those are the highlights of that.

**Mrs Munro:** Would you see, then, those initiatives that you've undertaken as addressing, in a long-term way, some of the sensitivities around the need to have people whose expertise may be extremely focused and therefore in short supply? Do you see that need for those people diminishing to some degree as those transfers of expertise and knowledge are made?

**Ms Bouey:** Definitely, I think we see that possibility. I think we're also looking, though, at how we can attract and retain people in terms of having them understand the quality of work that is available in the public service and trying to get the message out that the work inside is interesting, it makes a difference and that there's really a wide variety of careers available when you take a job in the public service.

One of the issues we're going to be facing over the next few years is that we will have a disproportionate number of people who can retire. Just as with everything else, the baby boom is going through our system. Because of constraints and downsizing over the years that date back for more than a decade, essentially we have perhaps a slightly older workforce than the average one. It is therefore very important to us that we take action to be perceived as an employer of choice.

**The Vice-Chair:** Thank you. The 10 minutes are up. To the Liberal caucus.

**Mr Duncan:** This morning in response to questions from me with respect to the wining and dining of senior officials by MFP, you identified Mr Tony Miele of the

ORC. Were you aware that Chris Hodgson, while Chair of Management Board, was the guest of Dash Domi and MFP in a box at Maple Leaf Gardens and, secondly, do you think it appropriate that while he was Chair of Management Board he ought to have taken that? Finally, it was reported in the Kitchener-Waterloo Record that while he was Chair of Management Board, the Management Board issued a directive that all ministries were to lease computer equipment rather than buy or build it themselves. Were you aware of this at the time? What would your advice have been to the minister under these circumstances about the appropriateness of him attending with Mr Domi and MFP at Maple Leaf Gardens?

**Ms Bouey:** I was not aware of those circumstances at the time. I believe that ministers are governed by the Members' Integrity Act and therefore this would be a matter for the Integrity Commissioner to determine whether the action was appropriate or not. It would not be up to me to so determine.

In terms of the lease versus buy, we have done a lot of work around business cases on that. I believe the Provincial Auditor, in his 2000 report, basically wanted us to make sure that we were looking at the total cost of ownership of computer systems and so on, and we have recently revisited it. Prior to introducing our corporate vendor of record, we have looked at the business case on—

**Mr Duncan:** So then you did direct that computers be leased and not bought at that time?

**Ms Bouey:** I would have to verify with my staff on that.

**Mr Duncan:** Could you, please, for me?

The next line of questioning I had was, you told me this morning that you had in fact released contracts for MFP. What you released was one contract that was signed on July 13, 1994, which expired in January 1997. As I read through that—and by the way, this lease document compares quite closely to Toronto agreements and Windsor agreements, and I would urge you to look at the statement of claim filed by the city of Windsor.

In reference to the lease payment, "The periodic payment during the initial lease shall be the sum set out in Appendix A." Software licence prices: see Appendix A. Purchase option price: in Appendix A. Upgrade price: see Appendix A. Interest rate calculation—and this is essential; this is where the differences are appearing now in court and inquiries—see Appendix A.

What you gave us for Appendix A was a blank piece of paper. You refused, on repeated occasions, to provide the interest payment calculations that were dealt with. Not only did you refuse to release the entire document, you took out every piece of salient information that relates directly to what's happening in Toronto, Waterloo and Windsor.

This information is now a matter of public record in other contexts: in the case of the city of Windsor in their statement of claim; in the case of the MFP inquiry in Toronto. Will you now undertake to release the information with respect to interest payments, software and all

the calculations that are now being shown, in two public inquiries and in a civil action, to have cost taxpayers in some instances more than twice as much as was bargained for?

Just to make the point more, we have asked for over 1,000 pieces of information, and in each case the important, meaningful information was removed from the documents. Will you undertake today to release the terms of agreement between MFP and the various ministries of the government that you so far have managed to stone-wall us on and not provide anybody with?

We have compared this agreement with the agreements before the civil courts in the Windsor situation, and they are remarkably similar except, in the province's case, you have deleted the salient information. Will you provide that information to this committee?

**Ms Bouey:** I would like to begin by assuring the committee that I take my obligations under freedom of information and protection of privacy very seriously and feel bound by the legislation.

In terms of the reason those sections were deleted, as you may be aware, section 17 provides an exemption for confidential commercial and financial information of third party contractors to the government where disclosure would harm their financial or commercial position in the marketplace.

**Mr Duncan:** I would submit that this information is no longer confidential, Mr Chair; that in fact it has been provided at two inquiries that are going on. I would also question whether or not this should be kept from a member of the Legislative Assembly. As a member of the Legislative Assembly, at the very least it should be shared in camera.

**Ms Bouey:** If you would like to hear about the differences—and there are some substantial differences between our contracts and those of the city of Toronto—

**Mr Duncan:** I'd like to hear what the interest rate calculations are, Chair.

**The Vice-Chair:** I—

**Mr McDonald:** Come on, Chair.

**The Vice-Chair:** Excuse me; you can come to order, Mr McDonald.

I said to the members this morning that I would appreciate it if the questions were kept succinct and that the answers be kept succinct. We'd all like to hear them.

**Ms Bouey:** In terms of the differences with the city of Toronto, perhaps I could ask my colleague Neil Sentance to elaborate on this.

**Mr Sentance:** Yes. In reviewing the public documents with respect to the city of Toronto, we identified a number of key differences between our current vendor of record, which we tendered in 2001—

**Mr Duncan:** On a point of order, Mr Chair: We are not in a position to make that determination because you haven't provided us with the province's information. So any comparison you make to the Toronto agreements with the provincial agreements, I have no way of verifying the veracity of what is said.

**The Vice-Chair:** Mr Duncan, I don't know that that's a point of order. You've asked a question. The deputant is answering it to the best of his ability, I suggest. So we should conclude his answer and move on.

**Mr Sentance:** A number of key points of difference between the city of Toronto situation and the vendor of record which we put in place in 2001: in particular, the provincial vendor of record required that the lease rates be tied to the government of Canada bond rate, and those would be fixed for the duration of the contract.

Secondly, we put very strict written controls with respect to what could be leased under the agreement, and that only included certain classes of hardware. We required all vendors of record to sign the MBS master agreement without amendment, and we maintain strict controls over the scope of that agreement. Again, that is related to specific asset classes of desktop equipment, servers and printers.

**Mr Duncan:** Did you say 2001?

**Mr Sentance:** When we went out to tender for a competitive process for a new vendor of record.

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**Mr Duncan:** Mr McDonald established earlier that the province has been doing business with MFP since 1989, so you're saying between 1989 and 2001, and most of the contracts we're concerned with and the payments that we've seen under public accounts had to deal with contracts that were before 2001.

**Mr Sentance:** We went from a situation where individual ministries, through competitive processes, were establishing arrangements with leasing companies, including MFP, but also including GE Capital. At the recommendation of the Provincial Auditor in his 2000 report, we initiated a process to establish a corporate MBS vendor of record which will, in a short period of time, replace those existing ministry agreements. As the Provincial Auditor recommended, it's appropriate we do a corporate, enterprise-wide vendor of record, and we have done—

**Mr Duncan:** So those leases between 1989 and 2001, then, were not subject to this?

**Mr Sentance:** No, those are existing leases which are being replaced—

**Mr Duncan:** Those are the leases that are in question, with all due respect.

**Mr Sentance:** —by the new agreement.

**The Vice-Chair:** Mr Duncan, just let him finish, please.

**Mr Sentance:** Thank you, Chair. Yes, those existing leases progressively have been wound up or are in the process of being wound up. All IT clusters have selected a new vendor of record through the corporate process we established last year, and that will be the structure upon which ministries will lease computers, going forward from February 2002.

**Mr Duncan:** I would suggest, then, that the interest calculations on every one of these agreements ought to be released. I do not believe they impact on the company's commercial viability. I believe it's in the interests of the



taxpayers that they be released. The fact that you didn't deal with it until 2001 and didn't in fact remove MFP as a vendor of record until November 2002, some three months ago, indicates to me that at the very least there are calculations and interest payments out there that will approximate and approach the kinds of situations that are being explored now in Toronto, Windsor and Waterloo.

Will you release that information—the actual cost of the lease that was interpreted at the beginning versus what the actual lease payments may be—as well as the other information that has been blanked out on the only MFP contract you folks have released through freedom of information? Will you undertake to the Legislative Assembly that this information ought to be subject to public scrutiny?

**Ms Bouey:** I would note that all those contracts were the subject of third party reviews; at least, I think all of them were.

**Mr Duncan:** Who would the third party have been?

**Ms Bouey:** It varied. We had an internal audit. Some were reviewed by the Provincial Auditor—not all.

**Mr Duncan:** Would MFP have been one of the third parties?

**Ms Bouey:** No. I'm talking about—

**Mr Duncan:** They didn't block any of the access. So it was other government departments that blocked access to this information?

**Ms Bouey:** I think it's important to note that the release request came through under freedom of information and protection of privacy, and when there is a third party involved, we are obliged to notify the third party, let them make representations and then determine whether—

**Mr Duncan:** You said this morning you were interested in—

**The Vice-Chair:** That concludes the 10 minutes. We can move on, please.

**Ms Martel:** I had another question for the Deputy Minister of Health and Long-Term Care. It relates back to the project we've been talking about, which is Smart Systems. I understand, Deputy, your explanation with respect to why the assignments were unbundled. My question, though, really has to do with why we are paying on a per diem basis. What I'd like to know is, given that the project is only really getting underway in terms of hiring, which leads me to believe there are lots of consultants still working, is there not any opportunity to move away from the per diem payment that was already established to a system of payment that would be based on a fixed time frame and a fixed deliverable, so we can start to bring some of those costs down? The costs, as the auditor reported, were quite significant in terms of the per diem for the fiscal year 2001-02.

**Mr Hassen:** I think you're correct. As the agency has been informed, there are processes now to remove that as a way of paying and having people as staff. There's no question that's where we're going. I can't say all of them, because I'd have to go through the detail. I don't know whether Lorelle has a comment on that, but let me make

just one other comment, if I may, to a previous question. You asked about those 15 consultants. None of them are around any more. They've all terminated. They were short-term contracts, and they are no longer doing those. Those projects are completed.

**Ms Martel:** And they haven't been replaced by 15 others?

**Mr Hassen:** No, I don't think so. Lorelle is the leader in that area. She advised me that they're all gone and those projects are completed.

The other thing is that Smart Systems for Health is as complex as I've mentioned and I've tried to allude to it. Probably a larger context would help, but it is eventually about linking 150,000 users across the province. Every health care worker with certain levels of access will have it, so it is a very difficult and complex project that does require that expertise. But we are moving in that direction. Maybe I can let Lorelle Taylor, the head of the IT cluster, speak.

**Ms Lorelle Taylor:** I'm Lorelle Taylor, the chief information officer for the Ministry of Health and Long-Term Care. I will speak to three points in answering your question on Smart Systems for Health.

Number one, Smart Systems for Health is, as Deputy Hassen mentioned, one of the most complex IT infrastructures to be implemented in the province. In looking at a risk management strategy to ensure value for money and ensuring a quality system that's available 24 hours a day, seven days a week for those Ontarians using the health care system, we have had to ensure that we have the top quality consultants and staff working on this initiative.

Recognizing, though, the Provincial Auditor's concerns in approving the Smart Systems for Health Agency, point number two, Smart Systems for Health has been mandated through the approval process to adhere to open, fair and transparent procurement and they are making every effort to do so.

Thirdly, we are in the process of establishing the agency and having a staffing model of permanent staff.

**Ms Martel:** Just so I'm clear, I'm not disputing the expertise you needed, I'm disputing how you paid them: how they were contracted and how they've been paid. Clearly, the auditor has suggested that you look at a fixed contract, fixed deliverables. Is that what the ministry is now doing?

**Ms Taylor:** I'm sorry, I didn't say that. Yes, we are.

**Ms Martel:** I had a question, then, with respect to another of the contracts the auditor dealt with, and that was the contract entered into by MBS with a consulting firm to review real estate transactions that have gone on at the Ontario Realty Corp. The auditor raised specific concerns about the original potential fees going from \$150,000 to the range of \$500,000 to close to \$6 million. Is this contract now over?

**Ms Bouey:** Yes, I believe that contract is now closed. I will verify that.

**Ms Martel:** Then with respect to the same issue, because there was certainly the forensic audit that was



done by the forensic accounting firm, but there was also a communications firm that was hired at the same time to deal with the communications issues that arose from some of those real estate transactions. I didn't understand why the process for creative communications and consultants for the same doesn't come under the directive as well; it seems to come under a different process. Why is that?

**Ms Bouey:** There is a separate set of directives for advertising and creative services. In terms of the ORC's specific situation, they were in transition at the time. They had not staffed up their communications function and then found themselves, as you mentioned, in the spotlight due to issues around the sales. They've taken action now to have more staff internally and to go through the Advertising Review Board process in terms of hiring any creative communications functions that they need.

**Ms Martel:** The concern I had was that there were lots of problems with the MBS directive on consulting, with people not following it, but there seemed to be even less protection for the taxpayers under the process used for creative communications. My concern would be, what steps are you taking to change that process to ensure that you're actually getting value for money? Because it was clear, even from the one example the auditor provided, that there wasn't value for money.

**Ms Bouey:** In terms of the particular example the auditor identified, one of the things was that because of how those particular contracts came about and the fact that they didn't have staff in place, they did have vague terms of reference, they didn't have ceilings, letters of agreement were not in place—in other words, this was sort of managing through a crisis situation; it was not a systematic approach to managing. For that reason, the ORC board has acted to put an ongoing communications function in place and to approach this more systematically.

**Ms Martel:** I think it goes deeper than that, though, Deputy. If I look at the auditor's comments on page 206, as he describes the situation, he talks about the largest firms being chosen through standing agreements with MBS's advertising review board and some of the dilemmas or problems with the standing agreement. So while it was a specific problem with MBS, as I read it, it's a much larger problem with the Agency Review Board and whether or not the process you have to hire consultants for creative communications gets us value for money. So I'm concerned about the broader process of the use of standing agreements and what that means and what, if any, changes you're making—obviously, you've dealt with ORC—to deal with other consulting contracts for creative communications that will come.

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**Ms Bouey:** We do go through a vendor-of-record process for advertising and creative communications that works somewhat differently. I'm just trying to find my notes on this. It is a full competitive process in terms of how the sub-list of consultants is provided. There are

some restrictions. I believe that a competition is not necessary if the amount of the contract is to be below \$50,000. The Advertising Review Board, for the very large contracts, takes over the whole process. So it works that we have had a sort of prior qualification process and that firms are either selected or assigned. I can certainly undertake to provide you with more information on how that process works and who is currently on it, if you're interested.

**Ms Martel:** I'd also like to know if you're contemplating any changes to it. At the same time as you're changing the directive for consulting services, are you looking at a second set of arrangements to see how the rules around that might be tightened up as well?

**Ms Bouey:** We're looking specifically, as we are with the procurement directive right now, at the issues around any potential conflicts of interest. In terms of other improvements, we're always monitoring that situation, but at the moment we're not as close to making changes to that as we are to the procurement directive.

**Ms Martel:** The changes that will come to a vendor of record: can you just describe them for the committee again?

**Ms Bouey:** Yes. I believe in the break you were actually given a handout that summarizes the various changes we are contemplating. Essentially, though, what will be required is that, first of all, the vendor of record can only be used up to a threshold amount of \$750,000 and after that there has to be a full competition. That amount takes into account the related contracts, so people can't subdivide any more. For contracts above \$25,000 and below \$250,000, I believe at least three firms will have to compete for the assignment; for assignments between \$250,000 and \$750,000, at least five. So we have basically come up with a regime that we're looking to implement that will require further competition at the second stage for vendor-of-record arrangements, and all of that, of course, will have to be documented.

**The Vice-Chair:** Surprisingly enough, 10 minutes has expired. We'll go to the government caucus.

**Mrs Munro:** I wanted to ask you further on the issue that we have just been discussing with regard to choosing vendors and the kick-in stage in terms of the value of the contract. Are there situations where the expertise is so special that there isn't much to choose from, there aren't many providers of particular expertise?

**Ms Bouey:** That could be the case in some very specialized areas. It should not normally be a problem for vendor-of-record arrangements, because they essentially are designed to take a relatively narrow subject matter area. For example, there's one for leasing—although that's not consulting—and there's one for program evaluation services. You obviously would have a range of companies or individuals who might seek to be placed on that and some of them might have the capacity to do larger ones than others. It was actually for the reason that there was likely to be a divergence in the skill base and the pricing that I believe the Provincial Auditor was anxious that we have a second stage introduced.



**Mrs Munro:** We talked earlier today about the question of those contracts and the notion of deliverables. Certainly in other areas of government, we talk about outcomes and things like that. Clearly, the procurement policy speaks to those kinds of issues. What kind of penalty is a vendor under? Are there some things that come into play should there be a problem?

**Ms Bouey:** Yes, provided the deliverables are properly defined, there can be penalties. The structure of that would likely be designed on the basis of the risk assessment of the individual contract. Perhaps I could ask Neil Sentance to do a bit of elaboration on that.

**Mr Sentance:** Typically, we would have a variety of remedies or penalties in standard contracts which would relate to such things as breach of confidentiality, some particular breach of IP warranty and other provisions whereby we would seek damages from the vendors in terms of recovery of procurement costs, in terms of monies paid and potentially other damages, particularly if there is an impact on a third party because the vendor failed to perform properly. So we're working to have contracts which have very significant levels of remedy and protection to the crown in them so that in the event there is a failure to perform or something else goes wrong in the contract, the crown can draw on those contractual provisions and take the appropriate steps.

We certainly have, in vendors of record, some systematic dispute settlement processes so if there is an issue at the client level that can't be resolved, that would then come to the central contract manager and we would attempt to resolve the issue. At the end of the day, if those issues cannot be resolved, then the crown has the right to terminate the agreement because those situations cannot be resolved.

**Mrs Munro:** Clearly, from your description, what you're talking about is a process that is undergoing refinement as the whole vendor-of-record process goes under review as well. Is that—

**Mr Sentance:** Yes, that's correct. In addition to the directives, we have been working on, again, streamlining our contractual provisions so that they are exact and clear in terms of the obligations that we expect all vendors to follow in terms of reporting what they're doing, in terms of knowledge transfer, which was a key concern of the Provincial Auditor, and to make sure that our contracts, in addition to the policy, do implement all of the obligations that we feel a vendor should follow so that, again, we can transfer that knowledge to OPS staff and we do have the remedies in place should the vendor fail to perform.

**Mrs Munro:** Do we have any sense of the reaction of vendors to raising the bar?

**Ms Bouey:** At this point, we have not engaged in a direct discussion on these specific elements. Obviously they have concerns about that kind of thing, but I think at the end of the day our first obligation is to make sure we are getting value for the taxpayers.

**The Vice-Chair:** Any further questions from the government caucus? I'll move to the Liberal caucus.

**Mr Duncan:** Under questioning in the House on October 28, 2002, the Deputy Premier defended the MFP deal and told MPPs that MFP was in full compliance with the master contract. I quote from Hansard, "I can tell you that the company has complied with all the mandatory terms of the RFP and the master contract set out by MBS." Just one week later, the government cancelled the contract. MFP was removed from the province's vendor-of-record list on November 4 for—and I'm quoting Julie Rosenberg, a spokesperson for the province's Management Board Secretariat—"failure to perform under the terms and conditions of the new master lease agreement." That was quoted in the Kitchener-Waterloo Record and the Toronto Star on December 21, 2002.

I have a number of questions. First, does the Deputy Premier get briefed on contentious issues before attending question period? Second, would it be fair to say that the government's dealing with MFP would have been identified as a contentious issue in late October 2002? Third, why did the deputy minister tell the Legislature everything was fine when clearly there was serious trouble? Specifically, I want to know which obligations MFP wasn't meeting with the standard lease contract. Were taxpayers not receiving value for money? If not, how much money was lost?

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**Ms Bouey:** I think you can appreciate that I would not be knowledgeable about whether the Deputy Premier is briefed on contentious issues. In terms of the MFP situation, what happened, as I indicated earlier, was that they were on our corporate vendor of record. There was a competition involving the justice ministries. They were the top-rated proponent and therefore were invited to enter into the agreement to supply the leasing services. What happened then was that they chose not to fulfill that. As to why they chose not to fulfill that, that was their decision, not ours. But because they did not fulfill, we removed them from the vendor of record. If you want to know whys of that, you'd have to ask the firm in question.

**Mr Duncan:** If I might, I'd like to quote Julie Rosenberg, from your ministry, spokesperson for the province's Management Board Secretariat, as quoted in the Kitchener-Waterloo Record and the Toronto Star on December 21, 2002: "MFP was removed from the province's vendor-of-record list" on November 4 "for 'failure to perform under the terms and conditions of the new master lease agreement.'" That appears to contradict what you just said to me.

**Ms Bouey:** No, it—

**Mr Duncan:** Let me finish my question, because I did throw a number of questions at you and I'd like to pose this one specifically. Which obligations wasn't MFP meeting in the standard lease contract? Can you identify those for me? Your officials said that MFP was failing to "perform under the terms and conditions of the new master lease agreement." Can you tell me specifically what areas they were failing to perform under?



**Ms Bouey:** Yes. They were asked to provide leasing services. They chose not to do so. No dollars changed hands.

**Mr Duncan:** So they refused. What about the existing agreements? You cancelled the contract for failure to perform. So are you saying MFP stopped leasing equipment to the government, that you didn't in fact get rid of them; they got rid of you?

**Ms Bouey:** In terms of the master agreement, they were required to follow certain conditions and provide leasing services. They chose not to enter into those leasing services.

**Mr Duncan:** If I may, what were those conditions?

**Ms Bouey:** They're a fairly extensive list.

**Mr Duncan:** I imagine they would be. Can you provide this committee with that information? Your officials suggested they were not meeting the terms and conditions of the master agreement. I want to know specifically which terms and conditions they were failing to meet.

**Mr Sentance:** If I may, Chair, there are two clauses in the contract that are of particular importance here. One relates to conflict of interest, where all proponents are required to declare and affirm that they have no conflict of interest. There is also a clause colloquially known as the hell-or-high-water clause, which essentially means that regardless of what happens, we agree to settle any outstanding financial obligations should the contract be terminated. During the course of the summer of 2002 we had a number of discussions with MFP around the interplay between these two provisions. This discussion was positioned to me as, I think, theoretical. We were under the assumption that MFP would proceed. They sought clarification on what would trigger a default under conflict of interest, and in the event of a default under conflict of interest, what the crown's obligations would be to pay out or return equipment with respect to any leases that have been entered into.

**Mr Duncan:** Can you elaborate on these conflicts of interest?

**Mr Sentance:** The conflict-of-interest clause is the standard provision that is in all contracts now.

**Mr Duncan:** What conflicts did they have specifically that you were concerned about?

**Mr Sentance:** I was not concerned about any conflict. They asked me what would theoretically or in fact trigger an event of default in which MBS would then take the decision to terminate the contract. The position that we provided back to them through the advice of counsel was that we will not speculate with respect to what particular facts would trigger a conflict of interest. In our view they had signed the contract to agree to the terms and conditions—

**Mr Duncan:** Just so I understand: MFP approached you, and I suspect then that they were concerned they in fact may have had a conflict of interest. Is that accurate?

**Mr Sentance:** I do not know the basis which drove their question. The question put to me was, would I elaborate or otherwise explain what would be an event

that would trigger a default for conflict of interest. I was advised by counsel that we would not limit our rights in advance by specifying any situation to trigger conflict of interest and that MFP was expected to execute the terms of the contract as signed.

**Mr Duncan:** So then you in fact had lawyers working on this file?

**Mr Sentance:** Continuously.

**Mr Duncan:** Continuously. When did lawyers begin working on this file?

**Ms Bouey:** If I might, when we're involved in contracts, we always have lawyers advising us.

**Mr Duncan:** Yes, I understand that. When did the lawyers become specifically involved in this instance and was it triggered by your concerns about interest rates that were contained in any of the contracts?

**Mr Sentance:** As Deputy Bouey has indicated, I have counsel with me at all points in the process and advising on finalizing contracts. If there are any issues that a vendor wishes to raise with respect to the meaning of a contract, I invite counsel to sit in and provide advice on that. These are often routine matters. In this case, MFP raised a specific issue which required that I invite counsel in to provide a specific opinion with respect to what advice I would provide back to MFP, and the advice was that we would not in any way restrict our rights through providing a clarification or any other information which would describe what we would consider to be a conflict of interest and that we expected MFP to execute the contract terms as they had agreed to.

**Ms Bouey:** And signed.

**Mr Sentance:** And signed.

**Mr Duncan:** Do I have more time?

**The Vice-Chair:** There's two minutes less eight seconds.

**Mr Duncan:** Did your counsel advise you of any concerns with the interest rate calculations on any of these contracts?

**Mr Sentance:** That was not part of the discussion.

**Mr Duncan:** Not part of that discussion. At any other time was it part of the discussion?

**Mr Sentance:** The discussion I had with counsel was entirely around developing the RFP and developing the pro forma contracts—

**Mr Duncan:** At any other time did counsel advise you of concerns with the interest payment schedules contained in these agreements, that bear a remarkable resemblance to the Toronto agreements and to the city of Windsor agreements? The city of Windsor agreements have been filed in a civil action. At any time were you advised that there may be some concerns with provincial agreements with MFP?

**Ms Bouey:** If I might, we have structured the financial terms of this vendor of record on quite a different basis than has been said publicly, anyway, in the inquiry about the Toronto arrangement.

**Mr Duncan:** Would you be kind enough to release the details of those arrangements so that we can scrutinize them?



**Mr Sentance:** We have the RFP and the standard contract, which is public information; we can provide that.

**Mr Duncan:** But we also need the schedules that outline the lease payments, the interest rates. This is the crux of the matter in Toronto, Windsor, Waterloo and elsewhere.

**Ms Bouey:** If I could note, the specific structure of the lease payments and so on would have been the result of them entering into the specific assignment with the justice ministries. That did not happen.

**Mr Duncan:** I would remind you that in the cases of Toronto and Windsor, in any event, testimony has been given that senior officials in fact did not catch the problems associated with the MFP contracts. What I'm asking you is, will you release the details of the contracts with Ontario so that they can receive the same kind of scrutiny as those contracts that have been entered into with the broader public service so we can have the assurance that that kind of scrutiny has been there and that the taxpayers of Ontario have not been faced with the same kinds of concerns that taxpayers elsewhere have been faced with? Can you release that information?

**Ms Bouey:** I think we have, over the course of years, had a number of reviews done, as I mentioned: third party, the Provincial Auditor, internal audit and a consulting firm that specializes in IT leasing have all reviewed various of these contracts. To the extent there were issues, they were addressed.

**Mr Duncan:** I would—

**The Vice-Chair:** Thank you. We'll have to move on to the next round.

**Ms Martel:** I'd like to return to the vendor of record.

Deputy, you told us that the threshold will now be \$750,000, after which time there would be a full competition required. I question that, because if I look at the previous directive, I thought I read that a competition would be required if the ceiling price, or the threshold, was greater than \$25,000, and that same trigger would occur for IT consultants if the tender price was greater than \$500,000. Correct me if I'm wrong, but it seems to me that you've significantly increased the threshold at which you would have a full competition. I'm wondering why you did that.

1400

**Ms Bouey:** The vendor-of-record arrangements basically represent a two-stage competitive process. The first set of competitions is essentially to get on the list. At that point we go through all the mandatory requirements for that area of consulting. We look at the quality of what they're willing to provide and we also look at the pricing arrangements and then there's a decision as to whether they'll be selected for the vendor of record or not. It is a pre-competition, if you like.

What we are now proposing is that for anything over \$25,000 that's on the vendor of record, they have to have a subsequent competition. The issue is just how big that competition has to be, because there's an awful lot of administrative work, both for the officials involved and

also for the companies involved, each time. So what we've tried to do is strike a balance between having a full competition every time and having a less complete competition, but where we've already gone through a fair bit of screening and evaluation. But we also are saying we cannot take something that is going to cost over \$750,000 and basically try and use the vendor-of-record arrangement. That has to be completely open. That's how we've tried to get that balance. In terms of things that aren't on the vendor of record, the over-\$25,000 rule still applies.

**Ms Martel:** Do you have a distinction between a competition for IT consultants and a competition for consultants who are not providing IT services? There was a distinction made previously, both in the directive, as I see it, and in the previous vendor of record. Is that distinction being maintained in—

**Ms Bouey:** No, those rules are now the same for both. That was part of the tightening up.

**Ms Martel:** OK. I had a question with respect to your comments that were made several times about the ministry really trying to do some work now on knowledge transfer as a result of the auditor's comments that consultants continue to do ministry stuff. The greatest concern I have is not an agency that was dealt with in this particular section, but in another done by the auditor in this report, and that has to do with Accenture. It is very clear from the auditor's most recent report in the fall that you have huge problems which continue with Accenture, both in terms of having a product that doesn't work, either for the ministry or the municipalities, but also a really serious situation where the ministry is going to continue to pay millions of dollars to this company because knowledge transfer has not occurred. What are you doing with Accenture to end this?

**Ms Bouey:** I would suggest that we do some kind of follow-up arrangement on that, because since that was not part of this and it is not really a regular consulting services contract in any case, I'm afraid I'm not prepared to answer the details of that. What I can say is as it has turned from a development project to more ongoing maintenance, we have taken steps to bring some of that work in and to develop and do the knowledge transfer with respect to that. But I don't have enough of the details to give you a full answer today.

**Ms Martel:** I'd appreciate that. I appreciate that you say it's a different kind of venture—maybe that's the best way to describe it—but the most important point is that there hasn't been knowledge transfer, and that was one of the key items the auditor identified with any of the other contracts. As far as I can tell or as far as I'm concerned, it's probably the biggest single problem you've got where that didn't happen and where taxpayers continue to pay this company because knowledge transfer hasn't taken place and because, frankly, the product doesn't work.

**Ms Bouey:** I think there are some well-thought-out reasons for why things are structured the way they are now. I would like the opportunity to get back to you on



that, though, rather than to try and answer that off the top of my head.

**Ms Martel:** OK. Thanks, Deputy.

**The Vice-Chair:** Thank you, Ms Martel. Does the government caucus have any questions?

**Mr McDonald:** We'll pass, Chair.

**The Vice-Chair:** The Liberal caucus?

**Mr Duncan:** I've been making notes throughout the day and I'm trying to come back to the consulting arrangements as well as the leasing arrangements of MFP, Management Board and the various ministries. This morning we talked about transparency in your opening testimony and the importance of accountability. I again want to come back notionally to the MFP contracts. Can you assure this committee of the Legislature that the leasing arrangements entered into across the various ministries did not contain provisions similar to those contained in the arrangements with the cities of Windsor, Toronto and Waterloo and a number of post-secondary institutions that I understand entered into similar arrangements? Can you give us that undertaking here today?

**Ms Bouey:** I have not had the opportunity to go through each and every one of them in huge and glowing detail, and before I give anybody any assurances on anything, I would always want to do that. However, I think it's fair to say that these arrangements were scrutinized by third parties and that we did take action to address the concerns. We have now moved beyond that point. We are no longer structuring the arrangements the way we originally did in the past. We've made improvements to those as we went. We now have a corporate vendor of record that is essentially structured on our terms.

**Mr Duncan:** If I might, I can tell you from testimony given at public inquiries and from a statement of claim filed by the city of Windsor in civil court that in fact many competent, well-qualified accountants and lawyers scrutinized these various agreements, and it turns out that the lease payments, the conditions of interest and so on, the so-called escalating clauses, got by many of them. More importantly, there are allegations of fraud and improper behaviour on the part of senior officials as well as elected officials. Given the magnitude of the number of contracts that had been entered into by the province of Ontario, it appears to me, and I can't say this with certainty, that Ontario was far and away a much larger client of MFP than the cities of Toronto, Windsor certainly or Waterloo. Given the testimony we're hearing, do you not think it appropriate that the terms of all of these contracts be released so they may be properly scrutinized by this Legislature to determine if in fact we got value for money?

Again, you've told us about what you've done going into the future, and I accept that. But I will remind you that the city of Toronto and others that have been subject to these contracts have also cleaned up their processes. The difference here appears to be that the government does not want to discuss those leases. There are many of them, as I understand it, according to testimony given by

the government, dating back to 1989, many of which you said earlier today are still in force.

Would it not be appropriate to release the details of those contracts so that they can have the same kind of scrutiny that other broader public sector institutions have had so that we can either get to the bottom of it from the province's perspective or give our taxpayers assurances that their interests were protected in ways which were different from virtually everyone else who has entered into these arrangements in the province of Ontario? You spoke about transparency this morning.

**Ms Bouey:** I understand that. I think transparency, as with the FOI legislation, has to be balanced off against areas of commercial sensitivity.

**Ms West:** Perhaps I can just comment with respect to the specific experience of the justice ministries. As Deputy Bouey noted, the justice ministries had entered into contracts with MFP even prior to the vendor-of-record process; actually, since 1993 in our case. Certainly as part of a review that was done last year—and we were before this committee last year as well—we did undertake to retain an independent expert adviser to review our contracts with MFP. That was done in 2001. That independent adviser confirmed to us that they were good contracts, well-negotiated, and that they did provide good value for money. We have given to this committee a copy of that report from the independent adviser—

**Mr Duncan:** So the police radios that were entered into by the province, which were very similar to the city of Windsor's, were subject to a much different contract?

**Ms West:** I don't believe that we used MFP for police radios. We did use MFP for some police—

**Mr Duncan:** Could you correct me, then? My understanding was that there were police radios involved.

**Ms West:** —computer-aided dispatch and records management systems.

**Mr Duncan:** Again, that was my recollection too: that it was similar in the case of the city of Windsor. I'm not certain about Toronto.

**Ms West:** I don't know if it was the same purpose, but certainly—

**Mr Duncan:** Could you provide me with a copy of that report, please? I know you have provided it to the committee.

**Ms West:** A copy of that report has been provided to this committee, and we can provide another copy if you like.

**The Vice-Chair:** Excuse me, I just asked research if they would look that up and provide it for us informally.

1410

**Ms West:** ONNY was the name of the adviser.

**Mr Duncan:** Did it address the question of interest payments and lease payments?

**Ms West:** They commented upon it and came to the conclusion it was good value for money. I should note for the committee, again, Deputy Bouey has raised the necessity for us to look at freedom of information legislation and comply with those strictures in terms of the



lease. We haven't released that report under freedom of information but we have released it to this committee.

**Mr Duncan:** Are you prepared to make that report public today?

**Ms West:** Again, what I have to look at is how freedom of information legislation does restrict me or affect that, but certainly I'll give another copy to this committee.

**The Vice-Chair:** Mr Patten, you have about three and a half minutes.

**Mr Patten:** My question is very brief. I'm not going to get into the detail of things, because we've gone through it. You've read the auditor's report, Deputy Bouey. You have a very good reputation for being a strong deputy. So what I'm going to say is generic to the organization of government at this point.

We can see that obviously the government was embarrassed, the minister was embarrassed and probably people in Management Board and various ministries were embarrassed. Quite frankly, I've been asked in my riding on more than one occasion about what the hell is going on. Well, I'm not the government, but I can concur that it's a source of something.

Having been a former minister of government services, having worked very closely with Management Board—at the time, this was a highly respected ministry. Something has gone wrong. I know you've only been there for a short period of time, but for a period of five years or so, the loss of respect, in my opinion, by some of the ministries, perhaps aided by Management Board itself not observing its own directives—there was an undercutting of authority, in my opinion, both moral authority and organizational authority.

I'm looking at this from the point of view of organizational development. I empathize with you in terms of your challenge—and it is a big challenge—but I believe the message has to get through, not just at the ministerial level—because bureaucrats hear that all the time and they can filter out what they want—but I think at the highest levels, the deputy and the minister levels, that, “We're serious about this, and when there are contraventions of directives, there will be repercussions if they are not observed.” I see that you've been quite specific with, “Here's our response,” and on paper everything looks great, but I suggest that there has to be some sense of passion in this, to say, “Hey, this just ain't good enough.”

I suspect for personal pride—we have \$3 million worth of salaries here today. Quite frankly, when I look at the directives and I remember when I was there, they're not that different over time. Even some of the levels of signing authority are the same. That was 12, 13, 14 years ago. But it's how urgently or how judiciously those are observed and who pounces on this and notifies the ministry, saying, “Look, we've got a line on this. You didn't report and we want you to report.” In other words, I believe the authority that Management Board has it's either not using or hasn't used—I won't say “now,” but I'll say for the period of time in which we've had this

report from the auditor. There were numerous violations, and I won't dwell on that.

I just want to make the point, seriously, that I think there needs to be a sense of passion about this in terms of personal pride in running the ministry; that we mean business; and a bit more of a hard-nosed, but understanding and fair, approach in terms of, “A directive is a directive. It's not a guideline that you can choose to ignore if somehow it seems to be apparently convenient.”

**The Vice-Chair:** I take it that we may be nearing the conclusion of the questions and comments. Any more, Ms Martel? Government caucus? Liberal caucus?

I want to thank you very much for your attendance today and for your patience and understanding in answering questions. We appreciate everyone's participation.

I'm asking the indulgence of the committee until everyone clears the room. There is I think one more matter to be dealt with.

**Mrs Munro:** Are we adjourned?

**The Vice-Chair:** No. I haven't announced adjournment yet. I just asked for a few minutes while they cleared the room.

We can deal with that now. It is kind of quietening down. It's my understanding, at least I'll direct my question that way, that there may be a motion to be introduced.

**Mr Patten:** Yes. People have received this.

I move that the committee request the following information of Management Board Secretariat or Management Board: the complete contracts between each ministry of the government, Management Board and any agency of the province and MFP Financial, and that specifically all information with respect to (1) lease payments, (2) software licence price, (3) purchase option price, (4) upgrade price, and (5) interest rate calculations be provided to this committee immediately.

**The Vice-Chair:** The motion has been made. Is there any discussion?

**Hon Doug Galt (Minister without Portfolio):** Chair, could we recess for 10 minutes?

**The Vice-Chair:** Yes, but we'll return at, let's say, 25 after.

**Hon Mr Galt:** How about—

**The Vice-Chair:** Well, 2:30. The committee will return at 2:30.

*The committee recessed from 1417 to 1430.*

**The Vice-Chair:** The committee is back in session. We have a motion on the floor that has been read and moved. I then ask for any discussion.

**Mr Duncan:** Mr Chair, we put this motion to begin to get at information that we believe is vital to the public interest in Ontario. The heart of our responsibility as members is to hold governments accountable at all levels for the way they spend our tax dollars. The MFP situation in Toronto, Windsor, Waterloo and across this province, operating as consultants and providers of leasing financial arrangements, has proven to be a very difficult issue where professional reputations are at stake, where the nature of the relationship between MFP and the leasing

public agency has been called into question, is the subject of two inquiries, at least one civil suit going on at this time, and it has been filed at this time in Ontario.

Yet Ontario, which appears to be the largest customer of MFP, as the government indicated earlier today, at least since 1989, refuses to release the details of the contracts that the government of Ontario has entered into with MFP, ostensibly on the notion that these contracts protect some kind of commercial interest. We reject that. We think it's part of a deliberate plan to keep that information from public scrutiny. We believe the details of those agreements, as entered into by various ministries, including the Management Board of Cabinet, Solicitor General and the Ministry of Natural Resources, are essential to our role as members in understanding how the government is spending our money.

I remind you, Mr Chair, that in the case of MFP and the lease arrangements between MFP and the city of Windsor, the city of Toronto and Waterloo, what's at stake, what's at issue, is the nature of the interest payment calculations and how those calculations can escalate over time.

We received no assurances today from officials here on behalf of the ministries. Indeed, neither minister was here to answer the questions. So if they can't answer the questions, we need to keep asking them, because the issues are serious. In the case of Windsor and Toronto, the costs associated with lease values in much smaller amounts than those associated with Queen's Park are believed to have doubled. These calculations have gotten past slews of lawyers and accountants, all of whom I believe acted in good faith, and I believe our public servants have acted in good faith. I believe it's incumbent on us as legislators to fulfill the key responsibility, in my view, of MPs, and MPPs in the case of the provincial Legislature, to get to accountability. The city of Toronto has gotten to accountability through an inquiry; Waterloo, similar. The city of Windsor has chosen to go the civil court route to try to get true accountability and a true measurement of these issues.

What struck me today in the testimony that was given here wasn't what was answered but what wasn't answered, and the essential issues remain outstanding. It's unfortunate that those answers weren't forthcoming. I believe it's incumbent on this committee to seek the information we have requested. That's why we have asked for this motion to be put. I believe we ought to scrutinize that information to see if in fact the arrangements between Ontario and MFP are different than Toronto or Waterloo or Windsor. Today the most senior public servants have not ruled that out. Their answers were, in my view, very unclear with respect to those important issues. We need to begin to explore this issue in much greater detail than we have. There were contradictions in testimony here between that which was given in the House, along with that which has been reported in other public inquiries.

I believe, as members of the Legislature and as members of this committee, the public accounts committee,

we have an obligation to seek this information and to look at it. My hope is that my concerns will not be borne out; my fear is that they will. In our failure to at least look or to demand that information, in my view, we will be failing the taxpayers of this province in trying to determine if in fact Ontario has arrangements that are similar to those that are subject to scrutiny and lawsuits in other jurisdictions.

**The Vice-Chair:** Any further discussion?

**Mrs Munro:** I have a couple of comments with regard to this. One of the things I'm struck by in reading this is the fact that there are no dates attached to this. We know that this vendor has done business with the provincial government since 1989. We know from that that there have been numerous opportunities—in fact, reference was made to a document that was presented to this committee some time ago with regard to this issue. We do know that over the course of the last, well, more than 12 years that obviously through this process there would have been several opportunities for the kind of scrutiny the member opposite refers to. We heard this afternoon, as a specific example, the justice cluster, where information was provided to us about the way in which the kind of scrutiny and third party analysis takes place. So I feel that to suggest there hasn't been scrutiny over a period of time doesn't stand up to the kind of information we have heard.

Secondly, I would suggest that in the specific requests that were made, the deputy was clear in referring to the obligation to provide information within the restraints provided by the freedom of information legislation.

On the basis of the fact that this is an open-ended request, on the basis that we have heard of this committee and other third party opportunities that have been made available in this process of the vendor in question, I will not be supporting this resolution.

**The Vice-Chair:** Further discussion?

**Ms Martel:** With respect to the concern that this is an open-ended request, the motion can be amended by the member or by anyone else to limit the information so that we're not going back a number of years and putting an onerous burden on staff in any one ministry to come up with the information. I don't think that's an issue at all, because we can clearly amend it to reflect a particular time period to limit or narrow the scope of the information that we're requesting.

Secondly, despite the provisions of the Freedom of Information and Protection of Privacy Act, I tend to find that the commercial section is used rather extensively to block information from members with respect to information that members demand through FOI. If there was really nothing here that people were worried about or didn't want to come into the public domain, I think the ministry should and would be more than willing to release some of the information that's been requested.

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Clearly there is a perception that there may be a problem with these contracts. Clearly we know that the government of Ontario would probably be the single



biggest client that MFP would have. And clearly if we want to tell the public straight up that everything that was done here with respect to this company was above-board and there is no cause for concern, we would be doing the utmost, and so would the ministry, to provide the information that has been requested.

I support the recommendation. I think it can be amended. I think it's really incumbent upon the government to provide the details, to make it clear to the public that there is no problem, at least with respect to the government of Ontario and these contracts.

**The Vice-Chair:** Just by way of informing the committee, there have been two references in discussion on this motion with reference to freedom of information. It would appear by the standing orders that the powers of the committee go beyond that. Under section 108(b), I would quote, "Except when the House otherwise orders, each committee shall have power to send for persons, papers and things." I just point that out for the information of the committee.

**Mr Patten:** I'd like to ask Ms Munro if she had a suggested time frame, because I would be prepared to amend the motion.

**Mrs Munro:** I considered that issue, and at this point I don't have a specific one to offer you, simply because I can think of some of the problems in terms of how narrow the time frame is or how long it is. So I think it's something at this point that quite frankly, in the short period of time we've been looking at this, I haven't given the kind of consideration I would want to give to be able to provide you with an answer.

**The Vice-Chair:** Any further discussion?

**Mr Patten:** Yes, because I'd like to deal with this, if you don't mind. Is there a way to phrase this so that—and I can see your concern. Quite frankly, I don't care if we ask it going all the way back to 1988. It doesn't bother me. That's fine. You have all three parties involved in dealing with this particular institution, and that's fine with me. If that's there, then that's OK.

**The Vice-Chair:** Any further discussion? There being none—

**Mr Patten:** Well, I'd like to make an amendment to add to this motion, following the last portion, after "interest rate calculation" on the list, "from the year 1988

to the present, this information be provided to this committee immediately."

**The Vice-Chair:** If I could just read that, to add "from the year 1988 to the present," after the words "interest rate calculation" and before "to be provided to this committee immediately."

All right, that's the amendment. Any discussion on the amendment? I'll ask the question. All those in favour of the amendment?

**Mr Patten:** A recorded vote.

**Ayes**

Martel, Patten.

**Nays**

Galt, Hastings, McDonald, Munro.

**The Vice-Chair:** The amendment is defeated.

We're back to the main motion. Any further discussion?

**Mr Patten:** Recorded vote.

**Ayes**

Martel, Patten.

**Nays**

Galt, Hastings, McDonald, Munro.

**The Vice-Chair:** The motion is defeated.

Is there any further business for the committee today that's not on the agenda? If not, I'd just remind the members that we will convene at 9:30 am on Wednesday, February 12, for consideration of the 2002 annual report of the Provincial Auditor, that being consideration of section 3.11, training division, Ministry of Training, Colleges and Universities.

Thank you very much for your co-operation today, and this committee stands adjourned.

*The committee adjourned at 1445.*





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Ms Lorelle Taylor, chief information officer, human services cluster, I&IT,  
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Mr Doug Galt (Northumberland PC)

Mrs Julia Munro (York North / -Nord PC)

#### **Also taking part / Autres participants et participantes**

Mr Dwight Duncan (Windsor-St Clair L)

Mr Erik Peters, Provincial Auditor

Mr Andrew Cheung, Office of the Provincial Auditor

#### **Clerk / Greffière**

Ms Anne Stokes

#### **Staff / Personnel**

Mr Ray McClellan, research officer,  
Research and Information Services



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Third Session, 37<sup>th</sup> Parliament

## Assemblée législative de l'Ontario

Troisième session, 37<sup>e</sup> législature

# Official Report of Debates (Hansard)

Wednesday 12 February 2003

# Journal des débats (Hansard)

Mercredi 12 février 2003

## Standing committee on public accounts

2002 Annual Report,  
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Colleges and Universities

## Comité permanent des comptes publics

Rapport annuel 2002,  
Vérificateur provincial :  
Ministère de la Formation et  
des Collèges et Universités

Chair: John Gerretsen  
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## ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON  
PUBLIC ACCOUNTSCOMITÉ PERMANENT DES  
COMPTES PUBLICS

Wednesday 12 February 2003

Mercredi 12 février 2003

*The committee met at 1003 in room 151, following a closed session.*

2002 ANNUAL REPORT,  
PROVINCIAL AUDITOR  
MINISTRY OF TRAINING,  
COLLEGES AND UNIVERSITIES

Consideration of section 3.11, training division.

**The Vice-Chair (Mr Bruce Crozier):** Good morning. The standing committee on public accounts is prepared this morning to review the 2002 annual report of the Provincial Auditor, section 3.11, with respect to the training division, Ministry of Training, Colleges and Universities. I ask that anyone who speaks on the record during this session please identify themselves by name—perhaps name, rank and serial number. Welcome.

As you may be aware, the ministry has up to 20 minutes in which to address the committee, and then we will go in rotation for questions and comments, beginning with the government caucus. It's been suggested to me that 20 minutes is too long and sometimes 10 minutes is too short, so just for variety, why don't we try 15-minute rotations this morning.

**Hon Doug Galt (Minister without Portfolio):** Sounds good.

**The Vice-Chair:** All right.

You're free to go ahead with your comments.

**Mr Kevin Costante:** My name is Kevin Costante. I'm Deputy Minister of Training, Colleges and Universities. I have with me this morning Bill Forward, who is the assistant deputy minister of the training division, and as well, to assist us, Patti Redmond, who is the director of the workplace preparation branch, and Sandie Birkhead-Kirk, who is the director of the workplace support services branch.

Thank you for giving us this opportunity this morning to update you on the ministry's response to the Provincial Auditor's report on the training division.

The auditor made 12 recommendations. We think these recommendations were very constructive. We're supportive of the recommendations, and we're making efforts to implement them. I hope to tell you what we're doing in order to address those recommendations. I want to start off, however, by giving a little bit of context about the training division and its programs and services, and then I'll move directly into how we're responding.

First of all, the vision of the training division is to ensure that Ontario has the quality and quantity of skilled labour supply to support our economic growth and competitiveness. The division's goal is to assist individuals and employers to increase skill levels and to help individuals make the transition from unemployment to employment and from education and training to the labour force.

The division serves approximately 715,000 individuals and 84,000 employers through our programs and services. Last year the budget for the division was just under \$350 million.

The programs provided by the training division include apprenticeship training and related services, helping internationally trained individuals seeking to enter and practise in a regulated occupation in Ontario, and preparing unemployed Ontarians to re-enter the workforce, with a particular focus on young people. We also provide literacy, numeracy and basic skills upgrading, again to help people enter the workforce. We provide assistance to workers who are facing business closure. We also provide policy, planning and research and evaluation support on labour market training and labour-market-related matters. As well, we work with TVOntario on distance education and training issues.

Many of our services are provided through transfer payment partners. Community colleges, school boards and community-based not-for-profit organizations, through transfer payment arrangements, deliver Job Connect, our summer job services program and our literacy and basic skills program. Our apprenticeship training is primarily done by the employers themselves, with the in-school component of apprenticeship done by our community colleges and a number of private training institutions, a large number of those being labour organizations.

We're facing some challenges in training and the labour market. Our labour force growth has been quite rapid, but it is beginning to slow. We anticipate that we could see emerging skills shortages in areas such as automotive parts, manufacturing, construction and health care occupations. As well, with the aging of the baby boomers, we're seeing a lot of skilled workers about to retire, and they'll need to be replaced. Rapidly changing technology in the workplace is also requiring a significant amount of retraining and upgrading by workers



who already have credentials. So a lot of our programs are aimed at those particular challenges.

Ontario has another challenge that some of the other provinces don't have, in that we are the only province or territory in Canada without a labour market development agreement with the federal government. Therefore, we have difficulties coordinating with our federal counterparts.

In terms of the programs themselves, I'll just give you a brief overview of them. Again, the apprenticeship program provides in-school and on-the-job training in a number of trades. The ministry works actively with industry and workers in terms of developing the curriculum and the training needs and developing new trades. We deliver this program through the 26 field offices. There's a great degree of involvement by employers and employees in apprenticeship.

We have taken a number of initiatives to improve the production of skilled workers in Ontario, particularly through apprenticeship, and we have a goal of doubling the number of registrants in our apprenticeship program. We have done such things as introduce a new program to revitalize college training equipment and facilities for apprentices. We have new journeyperson updating programs. We also have some programs to help more young people get into apprenticeship, such as the Ontario youth apprenticeship program and a pre-apprenticeship program. I'd like to particularly mention the Ontario youth apprenticeship program. This year, 71 school boards are participating and over 12,000 students will enter the program, which gives them a good start in apprenticeship if they want to go on after high school. As well, we have the apprenticeship enhancement fund, which is \$50 million over five years, to renew facilities and equipment in our community colleges.

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In the past three years, 16 new skilled occupations have been designated, for a total of 136 skilled trades in Ontario, in four main areas: automotive, industrial/manufacturing, services and construction. Forty-one of these are known as red seal trades, which means that once you achieve that designation, you can practise across Canada. At present we have about 55,000 apprentices and 24,000 employers involved in the program, as well as 50 training delivery agencies involved.

Another key program that we have is to help internationally trained professionals. We have a number of bridging programs to help foreign-trained professionals get into the program, in such areas as nursing, biotechnology, health care workers, teachers and skilled workers.

We've just recently launched three new projects in this area, one with the Ontario Society of Professional Engineers, to give internationally trained engineers the support and work experience they need to get a Canadian licence. As well, we've worked with the Canadian Manufacturers and Exporters to develop a guide for employers on how skilled immigrants can help meet their business needs. Lastly, we've been working with a group of

regulatory bodies to prepare tools and materials for other regulators, to encourage them to develop initiatives in this area. We also have occupation fact sheets that are available to people interested in coming to Ontario as to what the requirements are for their regulated trade, and we make those widely available.

The third program I'd like to mention is the Job Connect program. It's our program to help primarily young people get into the labour market. It gives them information about the local labour market and helps them with job search and resumé and interview skills. It also helps them get directly into jobs, and we think it's quite successful. We have a target of about 127,000 clients assisted through this program, with an annual budget of nearly \$100 million. We are estimating that about 80% of our clients who receive a service through this program go on to obtain employment or move into further education and training.

The fourth program I'd like to mention is the summer jobs service, which again is to help young people find constructive summer jobs. Our budget this year is about \$53 million and it assists about 60,000 youth to get summer jobs.

The literacy and basic skills program is a program that we fund through colleges, boards of education and community agencies to help people improve their literacy and basic skills training. The program is offered to adults age 19 and over who have been out of school and need some assistance. We have about 10,000 people who assist through volunteerism to help us deliver this program. Through the program we've also developed something called AlphaRoute, which is a Web-based learning tool to help people update their literacy skills on-line. It also has the facility to help francophones, native and deaf learners as well, so it's quite an exciting piece. Our forecast is that about 200,000 people were assisted through the literacy and basic skills program. It has a budget of about \$60 million.

That's just a brief overview of the programs. I'll talk very briefly and give you an update about the specific recommendations that the auditor made.

The first recommendation was regarding measuring and reporting on program effectiveness for the Job Connect and summer jobs services programs. The recommendation is for the ministry to help ensure that our continuous improvement performance management system operates as intended to monitor and improve the overall performance of the delivery agencies of those programs.

To date, we have introduced site visit procedures, and I've updated and documented them. They are currently being piloted so that the deliverers know how to use the system. We also have a number of planned actions. The ministry will implement a systematic data verification and compliance process with our transfer payment agencies. The initial pilot testing of the process has begun and we hope full implementation will be accomplished by April 2004. As well, system-wide verification of customer satisfaction and employment outcome data and



analysis of the data collection processes across the province will be undertaken. We're hoping to have that completed by March 2004.

The second recommendation concerned monitoring compliance with program guidelines for Job Connect and the summer jobs service program. The recommendation is for the ministry to help ensure that delivery agencies for Job Connect and the summer jobs service program comply with ministry guidelines and that the performance information on which funding is based is reliable. What we are planning to do is to implement systemic data verification and a guidelines compliance process that I mentioned under the first point. That will also address the monitoring and compliance with program guidelines. We're hoping to have that completed by April 2004.

The third recommendation was regarding measuring apprenticeship program effectiveness. The recommendation is for the ministry to ensure that the information and performance management system that we are developing will allow it to begin reporting publicly on achievements with respect to apprenticeship completion and employment rates, as well as the extent to which apprenticeship programs meet the expectation of employers and apprentices. To date, work has been completed on the customer survey. It will be conducted in 2003-04 and we will use that first survey for benchmarking purposes. As well, we have planned and the ministry has already started on the development of a continuous improvement performance management system for apprenticeship. Once that's completed we will be reporting on its achievements, as recommended. We're hoping to have that completed by June 2004.

The fourth recommendation is regarding updating apprenticeship standards. This is to help ensure that apprenticeship graduates acquire the skills they need to meet employer needs by ensuring that all our training standards and examinations are up to date and reflect current demands in the workplace. The ministry will be updating our exams in 2003. The exams are being replaced, starting with the oldest versions first. The oldest version was replaced in January of this year and is ready for consideration and approval by the provincial advisory committee that assists us with that. As well, we plan to continue the replacement process throughout 2003 and be fully completed by April 2004. Two exams and one training standard are currently under development and will be available for provincial advisory committee approval in the first quarter of 2003-04, and four additional exams and an additional training standard will be available for the advisory committee's approval in the third quarter of 2003-04.

The fifth recommendation is regarding monitoring apprenticeship program quality and compliance. That recommendation is for the ministry to better ensure the quality of apprenticeship training and compliance with training requirements by monitoring the performance of employers and in-class training providers. The ministry is addressing this recommendation through our new apprenticeship information system called the apprenticeship

support application. It is currently in development and will provide a portfolio management design that will assist with the identification of trainers with performance problems. The interim internal audit of that system has been completed and we've received positive feedback on that. The implementation of the system is scheduled for the second quarter of fiscal year 2003-04. Initial discussions with the Ministry of Labour indicate that the risk management framework for on-site visits which is being developed by the Inspections, Investigations and Enforcement Secretariat will also help us with that system, and I'll come back to that particular issue.

The sixth recommendation regarded the enforcement of legislation on restricted trades. It was recommended that the ministry act to reduce the extent of uncertified individuals working in restricted trades. The ministry has begun the process of developing an enforcement and information-sharing protocol with the Ministry of Labour, which does the on-site inspections. The ministry's field management staff have developed a framework for the new information-sharing protocol. We held the first meeting in the first week of February, further meetings are going to take place, and we hope to complete the process next month.

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The ministry is also developing processes to use the new information system to help focus our enforcement efforts on particular industries, trades and workplaces where there is a risk that's been identified. We hope to have that completed by the third quarter of 2003-04. As well, we will have controlled access to the new information system through the provision of a role that will provide real-time responses to enforcement-related queries. The screens for that access are now being developed. On a last point, we have also started discussions with the Ministry of Consumer and Business Services and the Electrical Safety Authority to determine the extent of involvement with journeypersons and contractors. We may be working with them to help in the enforcement activities.

The seventh recommendation had to do with effectively assessing prior learning and academic readiness of apprentices. This was a recommendation for the ministry to better ensure that our learning assessment tools for the apprenticeship program, both the assessment of prior learning and academic readiness, are being used effectively. To date, we have established targets for that. All existing trades with an in-school component will have standardized ministry-approved exemption tests by the end of 2003-04. Twenty-two tests have been developed and will be validated in the fourth quarter of 2002-03. Exemption tests require periodic updating, and therefore this will be an ongoing activity of our apprenticeship area.

Other planned actions: we have an interim policy on exemption tests that has been communicated, and a full communications strategy will be developed in the second quarter of 2003-04. We hope to have full implementation



at the ministry field offices and at our training delivery agents in the fourth quarter of 2003-04.

The eighth recommendation was regarding management of program funding for the in-school training of apprenticeships. The recommendation is for the ministry to ensure that funding levels for in-school apprenticeship training is appropriate. On August 1, 2002, we did introduce a new funding model that included the introduction of classroom fees for apprentices. Final evaluation of those classroom fees will be done in 2003-04 and, as part of that ongoing evaluation, we will also undertake a review of our in-school training and delivery funding model. So we'll look at the whole piece, not just the classroom fees.

The ministry is also developing a continuous improvement performance management system for our apprenticeship system, as I said. Part of the system is a key performance indicator. For example, information will be provided that will allow us to evaluate the pass-fail results by trade, class, level of schooling and by funded training delivery agent in order to establish a benchmark for our key performance. We hope to have that system completed by June 1, 2004.

Recommendation number 9 had to do with the tracking and reporting of participants' outcomes in the literacy and basic skills program. The recommendation was for the ministry to strengthen accountability and provide a sound basis for making informed funding decisions about that program. The ministry has taken steps to ensure that all agencies are consistently conducting and reporting on follow-ups. Guidelines have been developed and are posted on the Web site they use. We will also be dealing with the issue of lost contacts and having them included in the calculation. With the implementation of our information management system, the ministry can now generate a report that tracks the length of time clients remain in the program, which will help inform us in the development of performance measures.

The 10th recommendation had to do with linking funding to performance in the literacy and basic skills program. The recommendation was for the ministry to help ensure that funding to the delivery agencies for literacy and basic skills is appropriate and equitable based on the level and quality of services provided. The ministry has begun the development of a new funding model that will hopefully accomplish that recommendation. We're hoping that we will see recommendations in the late spring of this year and include a phased-in approach that will begin in November 2003, to start up in the 2004-05 business year.

The 11th recommendation had to do with monitoring delivery agency performance. The recommendation was for the ministry to effectively and efficiently ensure that our field consultants and delivery agents for literacy and basic skills were meeting the expectations. The ministry has begun to formalize a risk-assessment component used during our agency visits. The ministry will complete its tracking system to ensure that the timing of all agency visits complies with the risk-assessment approach and

take corrective action as required. The rating assessments will begin in April of this year and we hope to have that completed by March 2005.

The last recommendation had to do with the acquisition and management of consulting and other services. The recommendation was for the ministry to ensure that full value for money is achieved in acquiring information technology and consulting. The recommendation was also to recover any funding provided to transfer payment agencies that related to GST that we're not required to pay. The ministry has strengthened its procedures in this area for managing all existing systems and consulting contracts. The ministry fully tendered our new apprenticeship IT system that we started in 2001. The companies were selected through an RFP process and we had this verified by an internal audit. Prudent controls and processes were incorporated into the acquisition of information technology services for 2002-03. We also have begun a process for strengthening further procedures through a ministry-wide risk assessment project so that we can identify and mitigate our risks during procurement.

On the issue of GST rebates, the ministry has adjusted the contracts in 2002-03 to reflect that, and we've also asked those who were overpaid in the past—we've started the recovery process for those GST rebates.

Future systems development for RFPs will be issued through MERX, which is the public sector electronic tendering service, or through an invitational bid of companies on the vendors-of-record list. As well, we've made it a priority within the ministry that all managers get training in procurement, and there will be mandatory training taking place for all managers in the ministry in the next month or so.

**The Vice-Chair:** Excuse me. Are you nearing the end of your opening remarks?

**Mr Costante:** Yes, I am. I am done. Thank you very much, Chair.

**The Vice-Chair:** Thank you. As I suggested, we'll go in 15-minute segments. We'll begin with the government caucus.

**Mr Garfield Dunlop (Simcoe North):** Thank you very much for being here this morning. I guess first of all, you appear to be addressing most of the recommendations made by the auditor. I'm assuming that as we look toward the next auditor's report you feel that most of those recommendations will be addressed. When will that next report be out, Mr Auditor?

**Mr Erik Peters:** In two years. We do a follow-up in about two years' time.

**Mr Dunlop:** OK. So you've got a couple of years to implement those recommendations.

**Mr Costante:** I can assure you we took the recommendations very seriously and we hope we'll get a clean report card in two years.

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**Mr Dunlop:** Your timing was perfect when you came to the end of your comments and the Chair asked how long you'd be.



I'm very interested in the training portion of the Ministry of Training, Colleges and Universities because of my background. I spent a lot of time in that area and actually I'm a part owner in a business. We have apprentices from trade schools right now. If I can ask some questions around that—do you mind?—just around training etc and the programs.

Something came up last year, when I was parliamentary assistant to the Minister of Education and we did some consulting on technical and vocational things. The numbers I was provided with indicated that there would probably be a shortage in 10 or 12 years of around 700 vocational technical teachers in the education system. In fact, last year your ministry was excellent in working with Queen's University. We actually doubled the number of teachers who went to Queen's who were working on a letter of permission and were halfway through receiving their certification for teaching. Can we expect that your ministry will work with universities to make sure we have ample numbers of qualified technical teachers in our secondary school system in the next five to 10 to 12 years?

**Mr Costante:** Yes. If I can address that, we have identified, in our teacher training area, that there are a number of areas where we need teachers in the elementary and secondary school systems. Technical teachers is one area; we are having some problem with French language teachers as well, and math teachers.

In terms of technical teachers, as well as increasing the number of teachers who would come out of the Queen's program, the government has established a new university in Durham. They are also looking at setting up a school of education. One of the priorities they would have in that school, because of their relationship with Durham College, which does a lot of apprenticeship training, would be to address the issue of providing more technical teachers coming out of that school. So this is one more measure we're trying to take to address that skill shortage you mentioned.

**Mr Dunlop:** I'm very pleased to hear that, because that was one of my questions: how many other faculties could actually provide that service to the province so we will make sure that there will be enough technical teachers in our secondary and elementary school systems as we look toward the future? I think it's a strong feeling among citizens and residents of the province that there seems to be a shortage of skilled tradespeople in all areas. As the economy booms, I hear more and more of my constituents say they're having trouble getting a certain trade for a certain job they want to do. I know sometimes it even drives up the price of contracts when there's a shortage of people. I think we all would agree that we have to work toward making sure there's an adequate supply of skilled tradespeople in all these different areas as we look toward growing the province.

One other area I wanted to deal with—I think there are another couple of questions here—is that there seems to be some confusion around who delivers what when it comes to training in different areas. I'm thinking of com-

munities that might have a training college or university apprenticeship program. I think there are 26 in the province.

**Mr Costante:** There are 24.

**Mr Dunlop:** There are 24 in the province. I'm thinking of how they fit in to training boards and Skills Canada. Are we getting a lot of overlap there, or am I just confused on that right now? It's just that I think there could be some room for clarification or maybe working together, partnering a little bit better on that.

**Mr Costante:** As I mentioned in my remarks, Ontario is the only province—and territory, actually, including Nunavut; it was only set up a year or so ago—that doesn't have a training agreement with the federal government. So the mechanism of coordination between federal initiatives in the area of training and the provincial initiatives is not very strong. We do have some agreements with them. We obviously partner with them on apprenticeship, so that is good. But you still have this role confusion in Ontario that I think other provinces have been able to avoid. Frankly, it also means that we likely have some duplication of overhead and administration that wouldn't be necessary in some other provinces; they've been able to completely integrate their labour market system. So I think the problem does exist. Ontario has spent a number of years trying to negotiate a labour market development agreement, unsuccessfully, and efforts continue. Those efforts are somewhat stymied right now. The federal government is looking at a skills agenda that they announced, I believe, about a year ago, and have really put our labour market development agreement discussions on hold until that further unfolds, and that's pretty unclear right now.

**Mr Dunlop:** I've been told the feds just will not sign the labour market agreement; it's not going to happen.

**Mr Costante:** It feels that way.

**Mr Dunlop:** It's sad that we're left out of that arrangement when all the other jurisdictions aren't. Thank you very much.

**The Vice-Chair:** Mr Hastings and then Mr McDonald.

**Mr John Hastings (Etobicoke North):** Let me pursue the question, then. Why are we being so polite about it? What specific steps do you have in place to deal with this issue, which has been ongoing since 1995, actually?

**Mr Costante:** You're correct. I think we've been at it for six years now.

**Mr Hastings:** Why are we allowing ourselves to be so discriminated against, particularly the workers in this province—the employers?

**Mr Costante:** I can tell you that the minister and the ministry have communicated numerous times with our federal counterparts, asking for this. In May 2001, we indicated that we would accept all the federal terms and conditions without amendment, and we still couldn't get any process. I can also tell you that I think just about every community college in Ontario has written asking that this happen, as well as numerous employers and employer groups. It just doesn't seem to be going anywhere.



**Mr Hastings:** Have we considered other alternatives, such as taking them to court, since this is a pretty litigious society now?

**Mr Costante:** We haven't considered that one.

**Mr Hastings:** Why not?

**Mr Costante:** We could seek a legal opinion. My suspicion is that these are federal-provincial agreements, and agreements require both parties to participate. I think our lawyers would tell us we don't have much of a case.

**Mr Hastings:** That's not my understanding on the basis of negotiations with Quebec in 1995, when Bouchard was Premier; there was to be a complete turn-over of the old so-called manpower function to the provinces, because we almost lost the country. You're saying that the feds, despite the agreements with every other province and territory, still have their fingers in training, is that true?

**Mr Costante:** Correct.

**Mr Hastings:** So these agreements don't mean anything, really, except for getting the money.

**Mr Costante:** I think these agreements mean a great deal in the provinces that have them, in that they can coordinate their services, direct services to those who need them most, and reduce costs of overhead and administration. So I consider them very important. For whatever reason, Ontario has just not been able to get an agreement.

**Mr Hastings:** I'd like to have another round on this.

**The Vice-Chair:** In this round you've got five minutes.

**Mr Hastings:** Five minutes more?

**The Vice-Chair:** Yes.

**Mr Hastings:** How much money do the feds owe us, supposedly, since they would say they don't?

**Mr Costante:** The total value of the agreement is approximately \$600 million.

**Mr Hastings:** What did they offer us before they decided to close down so-called negotiations?

**Mr Costante:** It was about \$600 million.

**Mr Hastings:** There weren't really any negotiations to start with. It was, "Here it is. If you don't want it, don't take it." Right?

**Mr Costante:** They made an offer—

**Mr Hastings:** You yourself described the conditions and the requirements when they offered us so-called monies in 2001. It was, "OK, we'll accept it." That's negotiations?

**Mr Costante:** The issues prior to 2001 had to do with Ontario wanting its fair share of the total federal pot for training and employment. The \$600 million, in our view, was less than our fair share.

**Mr Hastings:** What would our fair share be?

**Mr Costante:** About another \$145 million.

**Mr Hastings:** So about \$745 million?

**Mr Costante:** Correct.

**Mr Hastings:** Based on what we pay into UI and our population?

**Mr Costante:** Based on our percentage of unemployed people in the country.

**Mr Hastings:** How does that compare with Quebec?

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**Mr Costante:** Sorry, I don't know the Quebec comparison. I think that would be about 32%, if I'm not mistaken, of the total federal budget, which is Ontario's share of the unemployed in Canada. We weren't asking for our share by population; we were asking for our share by number of unemployed.

Quebec has a higher unemployment rate than Ontario, although a much smaller population. We could find that out for you.

**Mr Hastings:** Could you table with this committee the monies that all the provinces and territories have gotten, what the agreement was, if there was one signed, and particularly Quebec? I'd love to see a letter regarding the legal opinion that the feds still have control over this function, when it was my understanding that they were to move from the field into so-called new federalism. So my understanding is incorrect?

**Mr Costante:** My understanding is that they essentially put on the table an offer to negotiate subject to an agreement, and they are not legally bound until they have that agreement. Given that no agreement was ever able to be structured, there's no legal obligation on them. That is my understanding, and I'll endeavour to get whatever legal opinion we got to support that.

**Mr Hastings:** OK. Thank you very much.

**Mr AL McDonald (Nipissing):** How much time do we have, Chair?

**The Vice-Chair:** Two minutes, in this round.

**Mr McDonald:** I need about 10 minutes. I understand there's going to be another round, so we're happy to pass.

**The Vice-Chair:** As I say, we go on as long as you have questions, so sure. Any others there? We move, then, to the Liberal caucus.

**Mr Richard Patten (Ottawa Centre):** Yes, just to pursue this line as well. I have a bit of a different perspective on this, quite frankly. It's not by accident that Ontario is the only jurisdiction that hasn't arrived at an agreement. "Everybody else is out of step," from what I hear, and it has been very difficult to arrive at that, especially if you look at the representation from Ontario in the federal government. People were anxious to arrive at an arrangement. My understanding is that Ontario refused to submit their objectives to the program.

I would ask if you would provide the documentation or any correspondence that shows that the federal government just all of a sudden cut off negotiations, or whatever happened at that particular juncture. My understanding was that the province did not fulfill its obligations in providing the objectives under which the particular program was cited. If you're saying to me or implying today that Ontario said, "We comply 100% with all requirements," and somehow that just ended, I personally will challenge that. There's something else going on here. Now, what really happened? Were you part of this, Mr Costante?

**Mr Costante:** I started in the ministry in August 2000, so I wasn't part of the early part. My understanding is that the initial disagreements between the federal government and the government of Ontario had to do with fair share and also the transfer of employees. That the federal government wanted, and required I think, as part of their collective bargaining process that we accept the federal employees with a three-year job guarantee. That was very difficult in the timing, given that we were looking at staff reductions of our own at that point.

In 2001, the ministry communicated with the federal government that we were willing to accept the agreement as is, at the amount of money, and accept the staff with the agreement, which was our understanding of the barrier to an agreement, and to date there has been very little or no response.

**Mr Patten:** Is that in correspondence?

**Mr Costante:** I believe it is, yes.

**Mr Patten:** Would you table that with the committee, please?

**Mr Costante:** Subject to any FOI conditions, I'd be happy to.

**Mr Patten:** Yes. The committee is not subject to the FOI conditions, by the way. It's a standing committee, and we have broader ranges, is my understanding.

**The Vice-Chair:** Yes, Mr Patten, if the committee requests it, that's the case, and a formal request would normally be with a motion. But anyway, he's taken on that he will provide it. If there are any obstacles then, we could deal with them.

**Mr Patten:** OK, fine. I'm going to stop there and let my colleague Mr Curling proceed.

**Mr Alvin Curling (Scarborough-Rouge River):** Deputy, I listened to you very carefully, and somehow in your response here to the recommendations put forward by the Provincial Auditor, you seem to agree with all those recommendations, saying, yes, you're going to act upon those recommendations. Would I be wrong to say there is a great inadequacy of performance by the ministry of skills development in carrying out its mandate? There are so many things that were lacking, and it seemed to be hurried. It seems to me the program that was put in place was hurried and, in trying to accomplish the ministry's goals, many things were short-cut and some things were not put in place properly, hence we have these problems. Would that be so? Was it late in coming forward?

**Mr Costante:** I don't know that I would necessarily agree with you, Mr Curling. I think what has developed in terms of programs in the last five to 10 years has been increased attention being paid on outcomes, performance measurement, making sure that transfer payment agencies were doing what they're supposed to be doing, making sure you monitor that. I think the ministry has been working toward all of that.

We had taken measures to implement a continuous improvement system; we hadn't got all the way. In some areas we made progress and in some areas we were still lacking, and I think the auditor rightly identified those

areas. But I think we're actually a little bit ahead of the curve in many of these areas in terms of performance monitoring and management. This ministry was one of the first ministries to have key performance indicators. So I think we are getting there. Was it 100%? No. Do we have work to do? Yes. And we undertook to do that work.

**Mr Curling:** Well, I have not been around too long—maybe too long for some people—but the fact is that I've always heard consistently from the Provincial Auditor that he wanted value for money, so it's according to that guideline that things were put in place.

With the short time I have, let me just narrow down on the area of foreign-trained professionals. You are saying that we recognize there are shortages there, but it seems to me that in some of the areas you're identifying—you mentioned health care, teachers, engineers, nutritionists and all that—somehow there is a tremendous number of individuals outside there. As I said, we have terrible taxi drivers because we have professionals driving taxis who are not taxi drivers. What is causing this problem of that transition, having those people trained and accessing their profession? I have my own ideas, but I want to hear from the ministry, what is preventing you from getting to that?

**Mr Costante:** This may not be doing it adequate justice, but I would say there are three issues.

I don't think we're investing enough in language training.

**Mr Curling:** Language training, ESL.

**Mr Costante:** Many employers make that remark, and I think many individuals have trouble meeting the requirements of their employers.

Second, I think a lot of immigrants come to this province from overseas with a lack of information. I think we could do a better job—when I say “we,” I mean both the province and the federal government—in terms of providing information, particularly in this age of the Internet, to foreign-trained professionals in their home country before they get here so they know what the requirements and expectations are.

Third, I think there were barriers put up, rightly or wrongly, in terms of Canadian work experience, passing certain tests. There needed to be a support system put in place for immigrants to help them address those issues. The approach we've taken is to develop a number of bridging programs. For example, one that has been around for a couple of years is called CARE for Nurses, I believe. It's a combination of the College of Nurses, St Michael's Hospital and the Yee Hong Centre. We get everybody involved in it. They have nurses who have foreign credentials whom they put in the program. They assist them with language training, and they get them a work term in the hospital or at the Yee Hong Centre. It gives them Canadian work experience and exposes them to employers. Those particular employers need service; it gives them an immediate contact. We found that these bridging programs were in early days yet, but we think they are a good answer to trying to address this.



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We also have to work with raising the awareness of a lot of the regulators. A lot of these professions have colleges, and I think we are making progress with them. I think the census information and the public attention on this issue is starting to have those regulators actively participate with us to break down those barriers. Their concern always is quality. They want to make sure the nurses are qualified. We don't want to have unqualified nurses, nor do we want to exclude people who have the skills we absolutely need. I think some good progress is being made. Again, I think we could always do more in those three areas. Further investments wouldn't hurt.

**Mr Curling:** What about the ministry's evaluation process, of people having their credentials evaluated? There's an inconsistency. While the ministry may evaluate it, the gatekeepers, the self-regulators, are saying that's not good enough. I'm sorry to use the term "gatekeepers"; somehow that gate seems to be rigidly closed, or there's a strong negotiation that has to go on before those people access their trade.

**Mr Costante:** What we have done is try to set up a very high-quality credential assessment service, called the World Education Service, which offers this service; they do charge a fee for it. People can access it when they're still in their home country, for example, or here. We think it gives them a very credible assessment, which hopefully employers and educational institutions will recognize when they look at a diploma from another country that they may not be familiar with. Those have been our efforts there. They have done a lot of work getting themselves known within the immigrant community, with employers and with the regulators, so that their assessments have credibility. That's not to say an individual employer may not reject it; it's hard to control an individual employer. But we think we're taking the right steps to try to break down that false discrimination, if you will.

**Mr Curling:** I've spoken to them, and they're doing a good job, I would say.

Wouldn't you consider that the ministry is also impeding some of that kind of progress, in the sense that the \$400 that is charged for apprentices who are going through school is another barrier or obstacle to getting—many of them who are paying are asked in the middle of their course to come up with another \$400. I think you mentioned that in your presentation.

**Mr Costante:** Yes.

**Mr Curling:** Here are people who are trying to get into the workforce. Here the ministry has identified that there's a shortage of skilled labour. Here you're saying that they want an ESL program. Here are people who have already gone through ESL and are accessing their programs through community colleges, and then find the government has slapped another \$400 fee on them. What was the motivation behind the ministry—I'm sorry; you're not a politician, you're a bureaucrat. What was the motivation they told you to put forward and draft this

wonderful piece of policy so these people could pay \$400 more in fees?

**Mr Costante:** I guess there are three points: seven other provinces have fees; secondly, fees do generate more money, and we wanted that reinvested; and thirdly, I believe the \$400 fee in the apprenticeship system is equivalent to about 12% or 15% of the cost, which is quite low, considering the tuition fee percentages we have in our colleges or universities. We didn't think it was too much to ask that somebody who is employed pay a minimal part toward their in-school training. Also, we found that without their paying a fee and having some personal stake, we were getting poor attendance in our in-school training. They would sign up and then not show up, and we would be sitting there with empty seats. So the fee does serve to provide some personal motivation. That was the rationale.

**Mr Curling:** That sounds like a wall to me, anyhow, like a barrier itself, because on one hand there's a shortage. When I look at the recruiting, if you look at the individuals who are coming to this country, many of them, their countries and themselves, have invested an enormous amount of money to educate themselves to that standard. In other words, Ontario or Canada did not expend that amount of training and money to those individuals. Upon arrival, or if they've been in this country, they would have had just a few more dollars in order to access the skilled labour shortage that we talk about, yet we put up another barrier. I'm completely confused about that in the sense that if you have a nurse, a teacher or any skilled individual coming and we have not invested in that—in other words, the brain drain on the other side is a brain gain here; then, when the brain gain comes here, we put up another wall.

I heard you explain to me that they want to invest; they want to feel a commitment. Because it will be \$400 more, I find it very, very difficult to sell that to individuals who basically do not want to be on the welfare system or don't want to be a burden on the system, but find themselves paying this fee to the government, in the middle of their course too. I think it is burdensome that some people going through their courses are then asked to give that \$400. I don't think that's responding to the shortages and the things we speak about in here. So the ministry itself doesn't work as a bridge for those individuals to enter into the workforce; it sounds like a barrier.

That's my rant, in a way. You may not want to comment on that. I wish the minister were here to hear some of my ranting.

**The Vice-Chair:** Thank you, Mr Curling. We'll now move on to Ms Martel.

**Ms Shelley Martel (Nickel Belt):** Thank you, Deputy, for appearing today. May I follow up on the issue of fees? How much has been collected by the ministry?

**Mr William Forward:** We implemented fees in August and we're in the process of registering students for classrooms, so we still haven't got a full appreciation of

what we're going to get. Our estimate is, on a full-year basis, about \$4 million to \$5 million in fees coming to Ontario.

**Ms Martel:** In a full year, on an annual basis?

**Mr Forward:** That would be for this fiscal year.

**Ms Martel:** When you say "this fiscal year," you're talking about 2003-04?

**Mr Forward:** No, 2002-03.

**Ms Martel:** OK, and then what's your anticipation for the out years, a small increase over \$4 million to \$5 million, year after year?

**Mr Forward:** Yes, we would imagine a small growth. We would see perhaps over \$5 million next year.

**Ms Martel:** Deputy, I heard you say that part of the rationale was to have these fees to reinvest, so I'm assuming you're saying to reinvest in the apprenticeship program. Has a dedicated fund been set up for the fees?

**Mr Costante:** No, a dedicated fund hasn't been set up, but we have got approval to reinvest the money in the training system, including apprenticeship.

**Ms Martel:** When you say you've got approval to reinvest, you've got approval from Management Board of Cabinet to reinvest?

**Mr Costante:** Yes, from government.

**Ms Martel:** So there is some guarantee that this money is not just going to go into the consolidated revenue fund and go somewhere else?

**Mr Costante:** That's correct.

**Ms Martel:** Let me ask, then, in terms of fees, because I think they are going to have an impact—I appreciate what Mr Curling is saying—what are you going to be doing to track enrolment, then, to determine if fees are becoming a barrier and might be having an impact on enrolment in apprenticeship programs? Have you thought about that, and what are you proposing to do?

**Mr Costante:** We do track enrolment, so we will have that on an annual basis, and we will be monitoring whether fees are having an impact. It is something that is somewhat hard to separate out. The economy can obviously have an impact on apprenticeship enrolments. Hopefully, our own efforts to increase the number of apprentices will have some impact on that as well. I think we'd have to see what impact it does have. Our information from other provinces that have introduced those fees before us is that there is a brief drop-off and then the numbers start going up again.

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**Ms Martel:** In terms of tracking them, I'm assuming you could do that by—I think you called them customer surveys; correct me if that's the wrong word—surveys of your apprentices asking a number of other questions and this could be tacked on. Is that what you're planning to do in terms of tracking?

**Mr Costante:** I don't know that we're planning that but, given your suggestion, we'll look at it.

**Ms Martel:** Thank you, Deputy. I'm glad I could help you this morning on that one.

**Mr Costante:** We could put you on staff.

**Ms Martel:** It is a serious issue. We obviously oppose the fee increase and that was part of the reason why, because we are concerned it would be a burden.

Let me ask you more generally about your registration in apprenticeships, because you certainly told the committee this morning that your goal is to double the number of registrants in the program. But the auditor I think was very clear in saying that if the ministry was going to meet its target for the expansion of apprenticeship training, it will need more apprenticeship programs in new occupations. I don't think I heard you, in your replies, elaborate on what it is you're going to do to increase the number of occupations outside of the traditional area. I think the auditor has been very clear that that's the only way you're going to be able to double. Can you tell us what your plans are?

**Mr Costante:** I may ask Bill Forward, the ADM, to speak to that. We have been making efforts and I'll let him elaborate.

**Mr Forward:** To double apprenticeship is an ambitious goal, I agree. We do have in place a strategy to achieve that target. One of the tactics of that strategy is to bring on line new apprenticeship training trades. We're working on a couple of large important ones right now. One is construction craft worker, which, in the past, has been a large trade in construction where you could not be an apprentice. We now have in place a training standard and will very soon be signing up lots of apprentices for construction craft worker. I think that's a really big step forward for apprenticeship.

**Ms Martel:** Can I ask, before you continue, what are your potential numbers there?

**Mr Forward:** Oh, lots. Construction craft workers are basically labourers. I've worked on construction sites. It's a very important part of any construction site and it's a large, organized area of construction. I'd have to come to you with what our forecast is for signing up apprentices in that particular trade.

**Ms Martel:** When do think you'll have that up and running?

**Mr Forward:** We've announced the trade. We've put in place the regulation. We are working on the training standard and signing up people as soon as we have in-school classroom training in place.

**Ms Martel:** OK.

**Mr Forward:** The other big success story we have is the new trade that we're working to in welding. Of course, you need to be a certified welder. There are different ways of becoming a certified welder but we're now making apprenticeship the leading way to become a welder. Again, welding is a large area of construction activity, everything from pipeline welding to structural welding to form welding. It will be very important. It's not quite as advanced as construction craft worker but we're getting there. We're in the process of identifying in-school trainers who can provide the in-school training for welding.

**Ms Martel:** If I return to what the auditor said, he made it clear that the ministry added 29 new appren-



ticeship trades over the past four years but they only accounted for 6% of total apprenticeship registrations. My next question would be, of the two that you've identified for me, what is that going to do to your total to take you to doubling?

**Mr Forward:** It's certainly going to increase the total. Apprenticeship has a number of very large areas in trades. Automotive, obviously, is very big; electrical is very big; areas of construction are very big. We have about 130 apprenticeable trades, so there are lots of little ones and a few very big ones. When you introduce new ones, it's very hard to move a very large number with a very small number. That's why signing up trades that have very large growth potential, like construction craft worker and welder, is very important to us.

When you sign up trades outside of the traditional area—for example, in services, that's something we're very interested in doing because that has a growth potential in the service sector, which of course is 70% of the economy right now. So we're looking at how we can move in those areas. We do have some ideas and we have some existing apprenticeships in the service area. I think we have to get better at looking at using the apprenticeship model in the service area, which of course is a major growth area of the economy. The higher-technology area is another area where we need to look.

So I agree: we need to do better there. We do have a strategy and we are trying to move as aggressively as possible.

**Ms Martel:** What is the base that you're starting from when the ministry says they're going to double the number of registrants? What is the base you're working from, and then, what is your timeline for doubling?

**Mr Forward:** Well, 11,000 is the base we're working from. I'm an economist, so our target is 22,000, and our timeline is the time it takes to get there.

**Ms Martel:** OK. I could be Mary Poppins tomorrow too, but come on. If you say that to the public, we assume there's some kind of realistic, legitimate timeline.

**Mr Forward:** We are between 16,000 and 17,000 now. So in the last four years we've done pretty well. We've increased 45% or 50%. We're growing pretty rapidly, so one can envisage the 22,000 target. The slight pause in the economy last year hurt our growth a little bit, but we're back on track now because the economy is back on track.

**Ms Martel:** I appreciate you say "one can envisage the 22,000 target." What year do you envisage that occurring in? The ministry must have a target. You're not operating in the dark here.

**Mr Forward:** I would say that in the next three years is our planning frame.

**Mr Costante:** Could I add a point?

**Ms Martel:** Sure.

**Mr Costante:** I think the other thing, as well as adding new trades, is that there has been a lot of attention paid to bringing more young people in and making apprenticeship a more positive option for young people coming out of high school. I would point to the tre-

mendous success we've had with the Ontario youth apprenticeship program. We've gone in the last few years from something like 200 high school students participating to nearly 12,000. I guess we really see that as a main effort in terms of trying to grow both the existing and the new trades.

If you talk to the people in the apprenticeship trades, they are very concerned that apprenticeship in the past perhaps had bad connotations to parents and students, and a lot of attention is trying to be paid by industry and by unions and employer groups to change that perception. Apprenticeship trades are well-paid, they're largely year-round work now, and it's not something that's dirty, dangerous and underpaid. I think those are important initiatives that we need to continue to work with our partners on.

**Ms Martel:** If I can move back to the international professionals for a moment, do you have dedicated spots and what would those numbers be in apprenticeship programs?

**Mr Costante:** I'm sorry?

**Ms Martel:** For internationally trained professionals, do you actually have dedicated spaces in your apprenticeship program?

**Mr Forward:** There are a couple of components to the program. Access to Professions and Trades is the title of our initiative. When it comes to professions, we're talking about the regulated professions, everything from nurses and teachers, and in the trades, of course, that's regulated by this division. We're actually the regulator. We give out the credentials; we design the exams and administer them. So we're putting in place the ability to better deal with tradespeople who arrive from abroad and need credentials here. Often the issue is language capability, the ability to understand the exam, the ability to pass the exam. Outside of the trades area, for example, in the area of nurses, we've implemented CARE for Nurses. The failure rate among foreign-trained nurses on the nursing exam in Ontario was 70%. For the nurses who are now going through our program the pass rate is 70%. That's the kind of success we've been able to pilot with CARE for Nurses. We're trying to replicate that in other professions and in the trades now.

**Mr Costante:** Just in terms of dedicated spots, with apprenticeships, the individual has to get a job first. So, as Bill says, I think we need to work on ourselves as the regulator of the trades to make sure that we don't put those same barriers in place that we're critical of, so that we can help. I think we've tried to do that by having prior learning assessment, which was one of the comments by the auditor, so that we can do those assessments of people and not have them having to repeat the whole apprenticeship. We have challenge exams, where they can just go and write the exam. If they pass, they pass, and they get their certificate.

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So I think we do have the tools and mechanisms to help the foreign-trained. Again, I think one of the issues is that we need to get that information to them as soon as



possible when they're thinking about coming to Ontario, and preferably when they're overseas.

**Ms Martel:** So that they understand what the requirements are?

**Mr Costante:** Yes, so they know where to go.

**Ms Martel:** Do you maintain databases of internationally trained professionals who are still unable to actually get into the employment they were in before they came here? Does the ministry maintain any database like that?

**Mr Forward:** No, we don't have a database on that. Obviously, there are stocks of existing people who are in the province, have come from overseas and are trying to work in their areas of expertise and education. Then there are the new flows coming in every year. We understand those very well. About 60% of total immigrants come to Ontario. We expect about 235,000 to arrive this year. About 70% of the adults who come to Ontario have some post-secondary education training, and many of those require academic credential assessment.

**Ms Martel:** Can I ask you about LTABs? Where in the division's budget do they fit in? Do they come under the training division? I assumed they would.

**Mr Forward:** Yes, they do. We continue to work with the local boards. They continue to work on local labour market planning and local labour market information. They work with us co-operatively in developing environmental scans and assessment of local labour market conditions, and they work with local labour market partners to try to strengthen the labour market supply in their communities.

**Ms Martel:** What's the budget?

**Mr Forward:** We spend about \$3 million a year supporting the work of the local boards, and we partner with HRDC of the federal government, which spends about the same amount of money.

**Ms Martel:** How many LTABs do you have now?

**Mr Forward:** I'd have to get back to you with the exact number. It's about 25.

**The Vice-Chair:** Thank you, Ms Martel. We'll move on to the government caucus.

**Mr McDonald:** I'd like to thank both of you for taking time out of your busy schedules to appear before the committee today to answer our questions. I just want to talk about the double cohort for a little bit. The commitment was that every willing and qualified Ontario student will continue to be able to attend college and university. Are you comfortable with that commitment?

**Mr Costante:** Yes. It is a big task. This is something that doesn't come around every year or every decade even, so it's a big challenge. We've been working on it for six years with our partners in colleges and universities. Part of it also falls on the training division: 50% of graduates from high school don't go on to post-secondary; they go right to the labour market. So a lot of the training division activities, increasing apprenticeship and our Job Connect program, which doesn't get a lot of attention, also serve to address the double-cohort issue.

In terms of the double cohort itself, we've undertaken a number of activities. There has been a large investment in terms of capital: \$2.2 billion. The minister announced just before Christmas that we were seeking another 13,000 spaces. The government committed additional funding for operating costs. We have indicated as well that, essentially, if they qualify for OSAP, they get it. So there should be no issues there in terms of students, if somehow they're 19th in line, not getting in. They will get in.

As well, we've introduced new scholarships. The Queen Elizabeth II Aiming for the Top scholarship will provide 35,000 students with increased student awards. Universities and colleges have increased the number of their student resident spaces by about 25%. That is something they fund on their own. So there has been a great deal of activity.

The university applications are in now. We know the size and shape of that. The college ones are largely in, although more flow in—they don't have as rigid a deadline. We still have to work out with colleges and universities the final increase in spaces.

I think it is a success story. The four-year curriculum was very successful. The students are actually graduating in four years in the university stream and the college stream, and therefore we have more students than we planned for. We don't have the solution completed yet, but we are engaged with our colleges and universities to make sure the spaces are there.

**Mr McDonald:** I know a lot has been made in the media about the double cohort, and now we're hearing the Stats Canada report coming out where we're having—I'm looking at headlines that say, "Grey Alarm" and "Health Care Hardest Hit by Aging Workforce." The double cohort is probably great news for Ontario, because now we're going to train our young people quicker than in the past and enable them to go into the workforce to fill the gaps in our aging workforce. I see it as almost a positive that this is happening at this point in time. Do you see that as well?

**Mr Costante:** Very much so. Many of these students coming out of the post-secondary stream will graduate in the next three to seven years, if some of them go on to masters' and PhDs. They will hit the workforce exactly when the baby boomers, such as myself, hit that retirement age and may be looking at different things. I think it is very positive for Ontario's workforce, and there's a long-term benefit in that you do have a higher percentage of people eligible to be in the workforce. All other provinces have stopped high school at grade 12; Ontario was the lone remaining one with grade 13. It means we do have a bigger pool in the workforce, so I think it's good for our economy away into the future and not only three, four and five years from now.

**Mr McDonald:** Being from the north, obviously I'm concerned about the north. When I talked to Dave Marshall, the president of Nipissing University, he was telling me that his applications for enrolment for next year are up 200%. To me it's great news that not only are



students in northern Ontario going to stay in the north and go to school there, but he's also drawing students from southern Ontario. That bodes very well for our university and all northern universities. We're of the thought that if individuals go to school in the north or train in the north, the opportunities for us to retain them in the north are that much better. Could you tell me a little bit about what your ministry is doing for the northern colleges and universities?

**Mr Costante:** First of all, I'll comment on your first point. I think it is very true that all the northern universities and colleges have experienced a large increase in applications this year, and I think that's good for them. Several of them were having difficulties with enrolment, and the double cohort is really going to be very positive for them.

We have a long-standing policy of providing recognition to the northern colleges and universities of the increased costs of doing business in the north in terms of distance and smaller campuses—the economies of scale perhaps aren't as great for some of the northern colleges and universities—and we provide special grants. In the last budget there was an additional \$16 million provided to northern and rural colleges and universities in recognition of those costs, which was about a 50% increase, if I'm not mistaken, in terms of our special allocations for them. All indications are that that was well received and is helping them develop new courses and strengthen their institutions so they can weather the storm, that being low population growth in the north, and in some areas an actual decline. Also, many of them are looking at providing service, whether through distance or other means, to some of the smaller communities. There is fairly rapid population growth in some of the remote reserve areas, and through Contact North, which I think is another success story from northern Ontario, there has been a huge increase in the number of participants accessing university and college courses. I think that's working out quite well, and we hope to expand it.

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**Mr McDonald:** In the north, we're always concerned about economic development. Southern Ontario seems to be booming, and it seems we're hurting a little bit in northern Ontario. We think of economic development as smokestacks and people going to work at factories. But in essence, universities and colleges are really a great economic tool in the north. Not only do they provide lots of employment; they bring students to our area who are very welcome in our communities, and create a critical mass for businesses to succeed. I think that's a success story, as you pointed out.

I just want to touch on the Northern Ontario Medical School. I understand it's the first medical school opened in some 30-odd years. We understand that the physician shortage is a problem not just in Ontario or Canada but throughout the world. I believe this school will be a great opportunity for the north to share in some of the expansion in this field. Could you just touch base with us on exactly where that stands at the moment?

**Mr Costante:** I had the great pleasure several weeks ago of attending the first board meeting of the new Northern Ontario Medical School—that was the kick-off. They have hired quite a well-known, world-renowned educator to be the dean. His name is Roger Strasser. He was hired from Australia.

The school will have two campuses, one in Sudbury, which will start with a class of 32, and one in Thunder Bay, which will start with a class of 24. The expected start-up date is September 2004. This next year, they will have the challenge of going through the licensing procedure that medical schools need to go through, and that will be a big challenge.

There's a lot of work going on now designing curriculum. They had a very successful curriculum development seminar in Sault Ste Marie some time after Christmas; I think 350 people attended. There's a lot of work going on right now in terms of planning and building the school up, working with the local hospitals, working with NOMEK and NOMP, which are the medical associations of northeastern and northwestern Ontario.

I think there's a fair amount of excitement around it. What I've heard from the people in Sudbury—and I haven't seen statistics—is that the announcement of the medical school in Sudbury has itself served as a magnet to bring new physicians to the area. If you challenged me on the numbers, I'm afraid I couldn't give you any, but that is what I've heard.

I think the intention around the medical school is that in the third and fourth year of their studies these students will go out to other areas—not just Sudbury and Thunder Bay, but Timmins, North Bay, Kenora and Sault Ste Marie—and practise there. Even as students, they will help the physician service of northern Ontario. I think that's very positive. As you mentioned earlier, there are studies showing that if somebody studies there, you stand a greater chance of keeping them there, and that's certainly the intention around the Northern Ontario Medical School. I think we've tried a number of other measures, and other provinces have as well, in terms of attracting physicians to the north, and we hope this one will have a greater impact.

**Mr McDonald:** There's no question that in the north we're able to offer a high quality of life, just with all the resources and fresh air and lakes and forests and trails we have. The theory is that if we train them in the north and they go to school here, and hopefully a lot of northern Ontario students will go through this program—obviously, being from northern Ontario you have that tie to the area and you'd want to stay.

Are there incentives for these students to go into these programs? I can only imagine that to go through to be trained as a doctor could be very expensive.

**Mr Costante:** I'm afraid I'm going to have to get back to you on that one. I think most of the incentives that we have come through the Ministry of Health. I have to admit I'm likely a little weak on that subject. I'd be

pleased to provide you with information on that, but I just don't have it off the top.

**Mr McDonald:** How much time do I have, Chair?

**The Vice-Chair:** You have about two minutes.

**Mr McDonald:** If they go to this Northern Ontario Medical School, are there incentives for them just to stay in the north? Or can individuals from southern Ontario go to the Northern Ontario Medical School and then just move south again?

**Mr Costante:** I think the school itself will have to decide on its admissions policy. They are having a debate about how they will treat students from the north and from the south without being discriminatory. But obviously, this is an opportunity for northern students to learn medicine in the north, and I think they want to be sensitive to that.

I think they also want to bring in programs—I don't know that they're necessarily designed as yet—for francophone and aboriginal students as well to access the northern medical school, given that they are important components of the population of the north.

I think it's something that's on the to-do list. I don't know that the programs have been finally designed yet.

**Mr McDonald:** OK. Thank you very much.

**The Vice-Chair:** There is another minute.

**Mr McDonald:** No, that's fine.

**The Vice-Chair:** We'll move on. Mr Patten?

**Mr Patten:** Yes. Don't confuse me with Mr Curling.

Deputy, what was the budget of your division? Has it gone up or gone down or stayed the same over the last five years?

**Mr Forward:** The last five years—hold on.

**Mr Costante:** Last year it was about \$350 million, but we'll see if we have the numbers for the last five years.

**Mr Forward:** The budget for 1999-2000 was \$377 million; 2000-01, \$349 million, or \$350 million if you round it; 2001-02, \$384 million; and 2002-03, \$386 million. That's for the training division.

**Mr Patten:** Is that all provincial money? Are there any other revenues outside of that budget, or is that the provincial allocation?

**Mr Forward:** There are some other monies in that. I believe that includes the federal contribution to apprenticeship training.

**Mr Patten:** How much was that?

**Mr Forward:** It's about \$30 million a year, depending on initial registrations in schools that year.

**Mr Patten:** So it went up, it went down, it went up a little bit. It hasn't really developed. Beyond 2002, the \$386 million is 2002-03?

**Mr Forward:** The \$386 million, yes.

**Mr Patten:** The double cohort, I will share with my friend Mr McDonald, is a heck of an opportunity; it's a big problem and it's a big challenge, and I know the constraints on that. I'm going to ask you a question but I'd like to make a comment first as to the indication of the resources. Obviously, the colleges and universities would want some support on this, but they're not going to want it if they have to carry the full burden on this. It

seems to me there are all kinds of opportunities for space in the community, school space in high schools that may not be utilized in cities and towns and one thing or another.

One thing that I might disagree with Mr McDonald on is that the doubled impact on the northern college shows the desperation of students. My reading is that students are applying three, four and five times, anywhere and everywhere they can possibly get in. I think that is part of the inflation of the numbers. I don't think those numbers truly represent a single student, and I think you'd probably know that better than I would.

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**Mr Costante:** The average through the university application centre this year was about five, and last year it was about four. So each student made an average of five applications.

**Mr Patten:** So when you factor that in—

**Mr Costante:** Yes. There is an increase in the number of students, and then each student is applying a little bit more as well. So if you took the total number of distinct applications just at the university level, it's about 500,000, but that really represents about 100,000 students. That's give or take 10,000. If you wanted the exact numbers, we could get them for you.

**Mr Patten:** I have a couple of questions that are in different sections, but I only have about 10 minutes. So if you don't mind, I'd like to jump around a little bit.

I was pleased to hear about the negotiations with the Ontario Society of Professional Engineers. Two years ago, I can recall having an experience with a young Russian engineer who was desperately trying to find work. He had come from Russia, and he had a wife and two children. He was about 34 years of age. He was a very dignified and very well-spoken young man. He was quite disillusioned. He said his understanding was—and his English was pretty good—that there would be a shortage of jobs for him in Canada. He was told he was overqualified to do it and that he needs a year's experience in Canada before he can be employed at that level. Even though he had received some kind of an accreditation from this particular body that acknowledged this, he still was not able to operate and work as a professional at that level. So what I had to do was phone around to different general contractors and say, "Look, I've got somebody here who has impressive credentials. Will you take a look at this? This person is prepared to work for minimum wage if he has to"—because he needed that one year of experience. He's not working for minimum wage now, but he's not working at the full level. He is working with other engineers. He's just not doing the sign-offs on the project. The general contractor said they were extremely pleased with this guy, that he was a godsend and fantastic, and I'm delighted to see that in that instance. But our system obviously has to work in a better fashion than that. We can't rely on MPPs to do this.

The nature of the negotiations that you have with that body—can you share where you're going with them?



**Mr Forward:** The Ontario Society of Professional Engineers is a new partner that we're working with. You're absolutely correct: licensing in Ontario requires a year's work experience. Internationally trained engineers can find themselves in that horrible conundrum: no credential, no job; no job, no credential. So we're trying to work with OSPE to bridge that. We're putting in place a program that is about that one year's work experience. It gives them training and an understanding of the Ontario workplace, the credentials assessment system in Ontario and the requirements to enter into practice. Then we work with OSPE, and OSPE tries to find them a work placement. Then they will come back and, at that point, they should be able to take the final examination and be successful. So we are trying to deal with exactly the problem of work placement in the area of engineering.

**Mr Patten:** That's good news. That's good to hear. I'm very pleased. I think the other end of the spectrum, of course, is that the embassies, high commissions and whatnot need to notify people: "Listen, if you go to Canada, you can't just walk in and function"—maybe there are some areas where they can, but in the areas they can't, "Here's what would be required: you have to take a year of training and work with another profession, whatever it may be. At that point, there is a review process, and you can gain your licensing and accreditation to operate and that kind of thing." So I'm pleased about that, and I think we need to do more in that area.

You had made a point, Deputy, which I personally agree with too, and that's the ESL program. Some of that is tied to federal agreements as well. Is that—

**Mr Costante:** That's all federal money.

**Mr Patten:** It's all federal money. Is there a shortage of that money, or is it that the program is not somehow fully available to all those who need it?

**Mr Costante:** I'm sorry, I don't have the exact numbers here. It's done through a federal program called LINC. Our understanding is that spending in Ontario is not anywhere proportionate to the number of immigrants in Ontario. I apologize, I don't have the exact numbers. If you wanted those, we could get those.

**Mr Patten:** OK. So what about all the ESL programs in our high schools? Is that all federal as well?

**Mr Forward:** Yes, there's ESL that's done in Ontario institutions, and the Ministry of Education has a budget for ESL. There's credit ESL and non-credit ESL, and there's the federal LINC program. There has been a lot of conversation in the press about how the federal government wants to address LINC and how it might improve LINC. I'm optimistic there may be something in the federal budget about English and French as a second language and how we're going to improve that in Ontario through more and better federal programs.

**Mr Curling:** How much more time do we have, Mr Chair?

**The Vice-Chair:** You have six minutes.

**Mr Curling:** On the LINC program, not being partisan at all, just directly, didn't the LINC program see a reduction more than an increase in money in that aspect?

I understand that some of the programs were cancelled. Is the federal government giving less money to the LINC program now than it was, say, in the last two years?

**Mr Forward:** I'm sorry, I don't have at my fingertips the funding trends for LINC. I think the deputy has made the point that in terms of the proportion of funding in Ontario relative to the need, Ontario can make a strong case for more LINC funding. In terms of the priorities of LINC, I think the federal government is signalling that they're interested in looking at more higher-level language training, more workplace language training, so that LINC can be about bringing people into the workforce as well as getting them the basic language capabilities they need to participate in Canadian society. So if that's where LINC is going, I think that's a positive step.

**Mr Curling:** You may have addressed this before when I wasn't here: the adult literacy program. We know that Ontario has—as a matter of fact, Canada—a serious situation in adult literacy or adult illiteracy, whatever negative or positive direction you want to go. Have we seen more funding in that adult literacy program? I know many other people are delivering it. The YMCA etc and many other groups are doing a wonderful job with the literacy program. We also know that the perception, especially with functional illiteracy—or functional literacy. We have found that it is skewed maybe to French-speaking people and to Canadians. One gets the idea that it may be foreign individuals coming here who are functionally illiterate. Have we seen any change in that? Is there more money in that? I notice that some of the deliveries here weren't up to scratch, and you plan to maybe correct that. Give me a quick overview of what's happening in that area.

**Mr Forward:** In literacy and basic skills, the budget in the current fiscal year is about \$60 million, and that's to serve, as the deputy said in his opening comments, about 200,000 clients: 400 in intensive language services and 160,000 in training orientation services. That \$60-million budget has been pretty stable for the last few years.

We are trying to get more bang for our buck in literacy. The deputy referred to AlphaRoute, which is an area where we're trying to use distance learning and technology to be able to teach literacy and numeracy on a remote basis. We were piloting that last year. We're rolling that out now across the province in all four literacy streams, and we're going to assess it. We may find that there are large efficiencies in being able to use distance learning technology rather than face-to-face literacy. If it is an effective way of learning, then we'll have achieved large economies.

So we don't want to just look at the budget; I think we want to look at the clients served. Our objective is to increase the quality and quantity of our training as effectively and efficiently as possible.

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**Mr Curling:** I would say that is—

**Mr Costante:** Sorry. If I can add one point of interest, literacy has been a long-standing problem, I think, in



Canada and in Ontario. The one piece of good news that I don't think has gotten a lot of attention is that the dropout rate in our schools, both in Ontario and in the other provinces, has gone down significantly in the last number of years. I think in the last 10 years it's gone down by almost half here in Ontario. So that's good news for the future, and I think that speaks to the school system doing a better job of dealing with individuals who maybe have had issues around reading and writing. Hopefully this will be a smaller problem in the future. It's never going to go away on us, obviously, but that is one piece of good news that I don't think is well known out there.

**Mr Curling:** That's a good positive indicator, Deputy. I agree with you that's where the problem was, and the education ministry didn't accept the fact because it would be a criticism on their part to say that people are falling through the cracks. Now that other things are happening, the dropout rate is not as much, although I'll question it when it comes down to the fact that there are still individuals within the system—minorities were dropping out at an even larger rate. So while we may have a good overall statistical figure showing progress, we're seeing a regressive aspect in other areas. I hope the ministry will start addressing those kinds of issues of minorities who are not completing high school, who are dropping out at a great cost to our society later on.

I think at one stage you quoted about \$66 million for basic literacy and at one stage you talked about 50-million-odd dollars. I didn't understand the discrepancy there. On the pie it was talking about \$66 million, but you expressed something in the \$50-million area.

**Mr Costante:** I think it was the Ontario summer jobs program which was \$53 million. Sorry; I was going quite rapidly. That was the comment just before the literacy program. It got garbled in my poor communications.

**Mr Curling:** OK.

**The Vice-Chair:** Thank you. We now will move on.

**Ms Martel:** The auditor took a look at some consulting contracts that the ministry had been involved in with transfer payment agencies. I want to ask some questions about the contract involving literacy and basic skills.

The auditor reported, "As at March 31, 2002, the total costs billed" for that project "were ... \$3.6 million, but the system was not yet complete."

I noted that in August 2000, when the contractor was selected, the bid price at that time was \$700,000. Three months later, the contractor put in a new bid of \$3.8 million. So we know it's at least \$3.6 million, as of March 31, and not done, although it may be done by now.

One of the reasons for the increased costs, the auditor notes, was that the request for proposal went out and said very specifically, and I'm quoting, "... 'the user requirements and preliminary data designs are still in progress. No decision has been made on what data identified will actually form part of the LBS [Literacy and Basic Skills] information management system.'"

Deputy, how is it that the ministry would authorize a transfer payment agency to go to tender with a project

when you didn't even know what that project was going to involve?

**Mr Costante:** That's not the best way to go to tender. I think we've agreed with the auditor that that is a very poor approach, that in going to tender we should have all of the aspects of the project scoped out beforehand. This was a project where we wanted to work with the literacy community on the design. I don't know what I can say other than that we shouldn't have done it that way. It was wrong, and we won't do it that way again.

**Ms Martel:** What was the pressing issue or the burning issue in the ministry where you would give conscious approval to go to tender for a project where the ministry itself didn't have a clear idea of what it was to deliver? What was the burning issue? What was pressing you to do that?

**Mr Costante:** I don't know what the exact burning issue was. Obviously, we had a desire to have a system in place that would allow us to better manage and do the things that the auditor rightly recommended we do in terms of monitoring performance and knowing who was delivering good service and who wasn't, and what sort of outcomes we were getting. So that was the burning desire, to actually have a tool that would allow us to do that. The approach taken was to try to work that out as we were designing the system. It's not a proper or good approach.

**Ms Martel:** When the auditor says, "The system development consultant was allowed to add 35% to its original bid to allow for unanticipated changes even before the project had begun," I'm assuming this was one of the consequences of going out with an RFP that wasn't fully structured, that you had no choice but to allow whoever was developing the system to do that because he or she couldn't anticipate their costs because the RFP wasn't well structured. Is that how we ended up there?

**Mr Costante:** That would be my assumption.

**Ms Martel:** Do you have a sense of how much more this probably cost taxpayers as a result?

**Mr Costante:** Not exactly, no. Our sense, and you may not believe me, is that we actually got a fairly good system for what we paid and that we didn't overpay. I have no way of proving that. Again, we'd have to hire another consultant to come in and look as to whether we overpaid or not. I don't particularly want to do that, but our own—

**Ms Martel:** Deputy, last time you and I tangled, it was over Andersen and Accenture—

**Mr Costante:** I think it was.

**Ms Martel:** —after you had just hired an independent consultant to come in and look at that mess, so here we are again.

**Mr Costante:** Our sense is that we did get a good system, and we recognize it was done in not the best way.

**Ms Martel:** Is this over yet? Is this project complete?

**Mr Forward:** Well, the literacy and basic skills information system is up and running. We have 200 deliverers in 300 sites. Before we had that information system, we had semi-annual reports from those groups. Now we have



monthly reports from those groups. It allows us to put in place a much better performance management system. We are going to be tying performance to funding, so we will have the kinds of performance measures that we have now in the Job Connect program, which I think has been recognized as a leading concept in programming. We continue to do systems development on it for better and more thorough reports, but we do have the system up and running now.

**Ms Martel:** And how much has it cost to this point? We had a March 31, 2002, figure of \$3.6 million.

**Mr Forward:** I have the same figure, and there are contracts in the current year to do further work on the development of the system. I can get back to you with the value of those contracts.

**Ms Martel:** Yes, because I'm assuming there are more bills that have come in since March 31, 2002.

**Mr Forward:** Yes, and because there is a help system that supports it, the system will continue to need to be financed.

**Ms Martel:** OK, but was the help system part of the responsibility of the consultant or the delivery agents? Is there a transfer of knowledge taking place here, or do you still have consultants in that are transferring knowledge?

**Mr Forward:** We continue to work with the literacy community to help us develop it, and the help system is supplied by a company. So that's part of the system, and we continue to run the system that way. If you're asking, could some of the support system be brought in-house—

**Ms Martel:** Is the help system being operated by the consultant?

**Mr Forward:** Yes, it is. By a firm, yes.

**Ms Martel:** Is that at some point going to be operated by ministry staff or by the transfer payment agency?

**Mr Forward:** Right now we have a current arrangement. We're happy with that arrangement at the moment.

**Ms Martel:** An arrangement with the consultant to continue to provide service.

**Mr Forward:** With an IT firm, yes.

**Ms Martel:** All right. Have you done any work to analyze what the costs might be if you were to bring that in-house, so to speak?

**Mr Forward:** No, we haven't.

**Ms Martel:** Do you intend to do that?

**Mr Forward:** Well, we have an existing contract, and I think the contract is effective. If you are asking, are there economies from bringing it in-house—

**Ms Martel:** Yes, that's my question. Do you know that, or do you intend to look at that?

**Mr Forward:** We could look at that. I mean—

**Ms Martel:** Let me tell you why. Just yesterday we went through one long afternoon dealing with consultant fees in a number of ministries where the auditor clearly identified that the work that was being done by consultants could have been done in-house, and that part of the problem was that we were paying fees two and three times what we would pay comparable ministry staff to do the work.

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I appreciate that you had a transfer payment agency do this work for you. What I'm trying to get at is, are there economies that can be realized if the consultant is taken out of the picture and the services delivered by that consultant actually go in-house? "In-house" might mean a transfer payment agency. I'll admit I'm not completely clear on the structure here, but that's what I'm trying to get at, because with the contracts we reviewed yesterday, we were paying more money. We were not getting value for money by having the consultants continue in these kinds of arrangements.

**Mr Costante:** I'll answer generally, and Bill is getting more information. My understanding is that the helpline service that we have now was tendered. We got the best deal through a competitive process. I think our requirement, once that contract ends, is that the onus would be on us to examine whether we could do it cheaper within government or externally. So I think when it comes to an end, if you're asking whether we would look at whether it's cheaper to do it inside, the answer is yes.

**Ms Martel:** When does that contract come to an end?

**Mr Forward:** Next year.

**Ms Martel:** In 2004?

**Mr Forward:** Yes.

**Ms Martel:** Is it the start or the end of the fiscal year?

**Mr Forward:** I imagine it runs to the end of 2003-04.

**Ms Martel:** Of the calendar year?

**Mr Forward:** Of the fiscal year.

**Mr Costante:** I could be mistaken here, but I think that's standard practice, or should be standard practice, when you use a consultant, to give consideration to whether you can do it cheaper internally.

**Ms Martel:** Part of my concern would still be—you will make some decisions at that time. You may end up in a dilemma where there has not been a transfer of knowledge, so you would not have people in place to assume some of that responsibility, and the contract would then have to be extended. So my assumption is that you have to be thinking about that and also seeing what transfer of knowledge is taking place as this unfolds up to the end of the contract.

**Mr Costante:** Helpline services tend to be fairly generic. I would assume we have helpline services inside and outside of government. The ministry itself has a training hotline that's run by civil servants. There would have to be some transfer. When we're at this point, where the system is already in place, you're really providing technical support to users, and those users are not ministry users, for the most part, but transfer payment agency users. It gets quite complicated with that transfer payment partner out there as to who—

**Ms Martel:** If they're generic, I'm a little bit concerned about your having gone through a process and then to continue to have it as what I would define to be outside. At the time you made the decision to enter into a contract to have a competitive process etc, was the problem that the transfer payment agency in question did

not have the skills themselves to assume the responsibilities of the hotline?

**Mr Costante:** I'm sorry, I'm not familiar with the exact details of the hotline, but in terms of going to an outside consultant, the issue at that time was resources devoted to the Y2K issue. The government at the time was having trouble getting IT resources inside. If we wanted to get it done, that was really the only avenue available. I agree with you that when we look at the hotline or other services we're purchasing outside, we should consider an inside option. We should always try to get the best deal for the taxpayer.

**Ms Martel:** I understand that there's money, then, going out for the contract for the helpline. Can you just clarify for me, is the system essentially complete in terms of any—I don't want to use the word "construction," but are your developmental costs now complete?

**Mr Forward:** As I said earlier, the system is up and running. We continue to develop it. There was a development contract this year to further develop the reporting structure so that we have more data on the agencies to better monitor performance, to ensure value for money and to improve client service.

**Mr Costante:** And we tendered that, just for the record. I think with many systems there is an issue of continued improvement, because if you leave a system static for too long, the world goes by it. So with all our systems you're going to have an ongoing component of improvement. Is it substantially done? I'd say the base is there and we will properly tender future—

**Ms Martel:** The next pieces of it.

**Mr Costante:** Yes.

**Ms Martel:** Sorry, Deputy, I'm just thinking about Andersen—and I'm trying to not think about Andersen—when you talk about those things.

Let me ask you about the other project, then, which was the Job Connect project. It's not clear to me whether, as a result of the process that occurred, you had additional costs that may not have been incurred had the ministry essentially had a more hands-on control of it. I'm looking at page 311 of the auditor's report where he outlines some of the payments that have been made. For example, in 1998-99 and 2001-02, the for-profit agency paid the company a total of \$4.4 million in transfer payments, and there's a breakdown. But the next line says, "In addition to the original development project, the ministry's annual funding for this project has included amounts for functional enhancements"—I'm particularly interested in what that means—"and maintenance of the system as well as delivery-agency training on the use of the system."

The functional enhancements, my first question: do you consider that to be routine enhancements to the system or is the problem here that you might be paying for things that might not have occurred or might have been in place had there been greater control over the project by ministry staff?

**Ms Patti Redmond:** I'm Patti Redmond. I'm the director of the workplace preparation branch, which has

responsibility for the literacy and basic skills and the Job Connect programs.

I wanted to clarify a couple of things. The Job Connect system is certainly much further along in its development with respect to work, but we did have to have some additional ability to produce reports and other kinds of activities in the development of that system.

As the deputy acknowledged earlier, in setting out the overall requirements for both systems, we didn't do as good a job as we should have at the beginning in terms of scoping out fully what the work was going to involve. As a result we've made some adjustments along the way as we further developed those requirements.

**The Vice-Chair:** If I might, just to interject at this point, this segment is completed but we are at the noon hour. It's my understanding that the government and the Liberal caucus have no more questions, so if you might want to—

**Mr Hastings:** I do.

**The Vice-Chair:** You do? OK. Then this segment is completed. The question now is whether we want to break for lunch and come back after or continue, but if we're nearing the end, I would suggest that we might just continue for the next few minutes. How's that?

**Hon Mr Galt:** Chair, I would encourage continuing till we wind up. If there's a question or two from either side, take those questions, and then wind up.

**The Vice-Chair:** Sure, yes.

**Mr Hastings:** Gentlemen, I'd like to go back and revisit the issue of immigration and newcomers and the whole thing in terms of how it impacts the Ontario economy and how you're trying to get the word out about new apprenticeship programs and what the shortages are. Let me ask you from the outset: in your dealings with Citizenship and Immigration—I presume you have some.

**Mr Costante:** Some.

**Mr Hastings:** OK. In terms of those "some," can you elaborate? I was trying to recollect. In the last year and a half I've had at least 60 newcomers come to my constituency office because Etobicoke North is a riding that has at least 75 different diverse community groups. Because I've taken an interest, when they come regarding their immigration situation, I've come to ask them, when they came to Canada, what kind of information they got from the immigration counsellor before they landed here and what was their understanding of the lay of the land in terms of how easy or difficult it would be to get a job in their given trade or profession. My recall is that most of them didn't get very much information from the immigration counsellors. In other words, they still have the old message out that Canada's roads are paved with gold and you shouldn't have too much of a problem. But it's come to be pretty evident across the country, if not in Ontario, that it's very, very difficult to get jobs, especially in the professions.

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Could you tell us how you are communicating with the immigration counsellors so that they get a more realistic assessment of what the job shortages are in this



province, since we're getting probably 65% or 70% of the newcomers to the country? How good a job are we doing in trying to help those immigration counsellors, and has the citizenship and immigration ministry been in discussion with you folks regarding how they could upgrade that information from the 1950s? That's sort of where I think they're at—some of them, anyway.

**Mr Costante:** First of all, the primary dealings between the province and the federal government around immigration take place through the provincial Ministry of Citizenship, so we play a support role to them on immigration matters. This has been an issue that has been raised with them previously.

The federal government, in its own consultations around the skills agenda, I think has heard fairly repeatedly of the need to equip immigration counsellors and others in the embassies who are dealing with people who want to come to Canada with better information. We have information sheets on what it takes to qualify in Ontario, which we share with them. Again, it's hard for us to judge how well that is penetrating the foreign offices. The federal government itself is talking about greater use of a Web site or a portal to provide Ontario's information, as well as information from other provinces, so that immigrants thinking about coming to Canada can get that information.

I would agree with you that many of them continue to get a very rose-coloured view of the employment situation and then come here and are disappointed and struggle to get that done. That was, I think, one of the points I made earlier. I think the federal government needs to take a lead. Obviously the provinces have a role of supporting them in getting that information to the immigrant.

**Mr Hastings:** We have this Web site that talks about what the requirements for the trades and the professions are. Do you know whether there are any ongoing discussions as to how Ottawa could connect some of its embassies up with this Web site? I presume it's not connected that way.

**Mr Costante:** Sorry. I don't know the details of it. I know they are talking about one Web site that would link to the Ontario Web site and all the other Web sites and try to synthesize that information and provide it in a uniform fashion across the world, wherever immigrants are thinking of coming to this country.

**Mr Hastings:** As you can see, some of the members here—I think most of us—are struggling in this whole murky area as to what progress has been made regarding both the trades and the professions. A lot of the professions are through the Regulated Health Professions Act. The engineers have their own professional society. The OMA is independent, the accountants—a whole range of these groups. Has your ministry ever contemplated trying to develop some sort of set of indicators for each profession and trade as to where they are in terms of accommodating and trying to get through the barriers regarding getting full credentials, I guess, in their respective trade or profession? My understanding is that

the accountancy profession has made some major strides in this area through the international equivalency board on professional accounting, and the engineers as well, whereas the medical society seems to be somewhat behind in that area.

Do we have any kind of readily made set of indicators, whether it be for a labourer or carpenter right through to the professions? The indicators will be increasingly complex, obviously, because to be a doctor, to be trained as a cardiologist, is going to take you probably a decade-plus, whereas some of the trades may be up to about five years. Do we have what those indicators would be so that when one looked at a chart, one could see on a page that, for a given profession, if we're going to become increasingly reliant on newcomers to fill some of the job shortages, we would as legislators have a better understanding of where we've made progress and where we haven't.

**Mr Forward:** Let me try to tackle that. I think you're right: more information and more timely information to prospective immigrants and to immigrants that are here is very valuable. We're trying to address that in a couple of areas. One is what we call information sheets. You can go on to our ministry Web site and you can get information sheets on various professions and trades that explain the regulatory environment and the steps you need to take and the qualifications you need to have to enter into practice or enter into a trade in Ontario. We recently rolled out a new information sheet on professional engineering. We have a number of these sheets. They are on our Web site and we try and add to them all the time. So one is the provision of information in a flexible, easily accessed way, nationally and internationally. We're working on that. We continue to move forward on that initiative.

Second is we've recently announced that we are partnering with a group of professional regulators and funding a partnership where they're going to put up a Web site, they're going to address a set of principles on how you address this issue and they're going to identify what the best practices are to be able to move the internationally trained more quickly into the economy. So we've also partnered with a group of regulators who are going to reach out to other regulators about best practices and about information sharing in this area. So we have a number of information initiatives, and these are two of them.

**Mr Hastings:** What are some of those groups you're dealing with? Is accountancy one, or engineering?

**Ms Redmond:** Nurses, teachers.

**Mr Forward:** So nurses, teachers—is OSPE part of that?

**Ms Redmond:** OSPE is not a regulator.

**Mr Forward:** OK, it's not a regulator, no. But OSPE is the professional association.

We can get you the list of partners we're working with on this initiative and I'd be happy to get back to you on the full list.



**Mr Hastings:** I have the impression, mistaken though it may be, that we are probably putting so much emphasis into this area because we believe that the skill shortages in whatever trade or profession will probably end up being filled to a great extent by newcomers rather than by Canadians already here, given our history of how we have relied on—if you take West Germany from the 1950s, 1960s and 1970s, Canada relied to a great extent for its millwrights on the European countries and we still have that mindset. Or do you think we're giving equal emphasis to both newcomers and trying to help in the area of skill shortages there, and also dealing with the issue of our young people in high schools and elementary schools about what the glamour and glitz could be about a given trade?

**Mr Forward:** I think the renewal of the Ontario labour force is an important public policy issue, and we see that from the census data published yesterday. The echo boom arising from the baby boom is a huge opportunity to renew Ontario's labour force. Those people are coming into our post-secondary and training institutions now, and they'll be moving into the labour force soon. By the end of this decade, 2011, the first baby boomers are going to be reaching retirement age, and the early leavers are starting to go now.

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So we have to look to our own domestic institutions, post-secondary training and education, as the foundation for renewing the labour force in Ontario. But the census seems to be indicating that the net growth in the labour force is going to largely come from abroad. Right now, according to the census figures I saw yesterday, 70% of the current growth in the labour force is coming from abroad, and that percentage is going to move up from 70% over time. So it's not as simple as to say, "Canadians are going to be enough to meet the labour market demand," and it's not enough to say that all our needs are going to be met from abroad. I think it's a combination. But the demographic trends are pointing to the increasing importance of being able to adapt and integrate the internationally trained into Ontario.

**Mr Hastings:** So the feds are going to have to get up to speed much faster than they have been in this whole area, then, if we're going to have people coming here and getting into a trade or profession that reflects their originating country's background—than is occurring now?

**Mr Forward:** Agreed.

**Mr Hastings:** OK. If that is the case, I want to go back to the whole area of the labour market participation program. It was my understanding as well that one of the reasons Ottawa wouldn't sign an agreement with us deals with our not accepting all their employees from the old departments that dealt with labour market participation. If that's true, was that a requirement of the other provinces, that they had to accept every employee before you could get the money?

**Mr Forward:** Yes. There are two different types of labour market development agreements. One devolves

the federal programming and staff to the provinces that choose to have them devolved. Alberta, Quebec, Manitoba and New Brunswick, I believe, wanted full devolution agreements. There are other agreements that don't involve devolution, where there's just better joint planning.

Ontario wanted a full devolution agreement. The federal government was asking us to take 1,007 federal employees into the Ontario public service and give them three-year job guarantees. I think the deputy pointed out that the timing of such an offer was difficult. Also, there was the issue of the share of funding. But as of 2001, Minister Cunningham signalled to her federal colleague that in spite of these issues we thought the issue of improving, integrating and removing the overlapping duplication in Ontario's training system was big enough that we were willing to swallow those two issues and move forward. The response back was not positive.

**Mr Hastings:** Then, if you use a rounded figure of about half a billion dollars that should be coming to us, which we haven't been getting for X number of years now—and shame on the feds on this, to use a jurisdiction—how are the feds using that half a billion dollars, in terms of their own agenda? You mentioned earlier that they had started some labour participation in their own skills shortage programs through Skills Canada etc.

**Mr Forward:** Right. The money is closer to \$600 million. The money is spent by HRDC in Ontario for federal priorities. Two things can be said about that: one, the federal priorities tend to be more and more in the area of promotion and less and less in the area of in-school training; secondly, two years ago, the federal government didn't spend all of the budget. It didn't come close to spending all of the budget, whereas in those provinces that had labour market development agreements, especially devolution agreements, the budget was fully spent. So both the quantity of spending and the areas of focus of spending are areas where we would like to see improvements, and we think a labour market development agreement would help us achieve those improvements.

**Mr Hastings:** My only—

**The Vice-Chair:** This segment has gone a minute or so over, but we can continue.

**Ms Martel:** Ms Redmond, would you mind coming back for just a few more questions?

With respect to the Job Connect information system, who is operating that system now?

**Ms Redmond:** The system is operated by us in partnership with the Ontario Association of Youth Employment Centres. That is the not-for-profit, community-based organization we work in partnership with. They have IT consultants whom they have retained to do the technical aspects of it, including some the help desk support that was mentioned earlier in reference to the literacy and basic skills system.

**Ms Martel:** Is there a contract with the systems development firm to manage the help desk and other IT components?



**Ms Redmond:** The Ontario Association of Youth Employment Centres—OAYEC, if I can use the acronym—does have a contract with the IT consultants who are providing the help desk support and other system development activity, and the ministry has the contract with OAYEC.

**Ms Martel:** Has the same organization—the same consultant—been in from the beginning on this project?

**Ms Redmond:** There have actually been a variety of different IT consultants involved in the development of the Job Connect system. The main project manager—online services IT consultant—has been the same, but there have been a variety of others.

**Ms Martel:** With respect to the literacy and basic skills help line service, the deputy said that was tendered through a competitive process. Did the same thing happen with the Job Connect project?

**Ms Redmond:** We initially tendered the activity, but we subsequently added on to the contracts beyond the original tender amount.

**Ms Martel:** When did that occur?

**Ms Redmond:** It all began back in 1998.

**Ms Martel:** I must say I'm a bit confused, because I thought one of the objections the auditor raised was that there wasn't a competitive process. I see that the first payment started in 1998-99. Maybe the problem is that a portion of the project was tendered and a portion was not. Is that what happened?

**Ms Redmond:** That is correct, and we do agree with the auditor that although we tendered the initial portion—I should be clear that OAYEC tendered a small portion—those contracts were added on to without subsequent tender. That's where we clearly acknowledge that process was not ideal.

**Ms Martel:** Are you in a new tender right now, in terms of your agreement, or one that has carried over from the problem the auditor identified?

**Ms Redmond:** With respect to the Job Connect system, subsequent to the audit period we did tender for some of the further system development work, and we will have to do a tender with respect to the help desk support, which hasn't happened yet.

**Ms Martel:** Because that agreement is still ongoing.

**Ms Redmond:** That agreement is still ongoing.

**Ms Martel:** When does that end?

**Ms Redmond:** I believe that agreement ends next year as well.

**Ms Martel:** The same point I raised for the previous project: I assume you're going to look at whether you have more in-house support, so that we don't continue to engage consultants for IT work and support.

**Ms Redmond:** Yes. I think we committed to looking at that for both.

**Ms Martel:** Thank you.

**The Vice-Chair:** Any further questions from the government caucus?

**Mr Hastings:** The one question I'd like to pursue with you again, gentlemen, is, do you foresee in the next two to three years any kind of publication or report that

would give us a better handle on the progress the various groups are making in terms of the Regulated Health Professions Act or the other independent professional societies we have in Ontario? If you say the trend is, and it's probably fairly obvious, that we're going to have to rely on newcomers to the country to fill a large number of these job shortages over the next decade, do you not think we need some way of measuring each specific trade and profession as to where we will be or are now and where we can look back in five to eight years and say, "Yes, we've been making progress in these areas, and here's why"? Right now there isn't anything, except on an individual basis, that would tell you that the accountants are way ahead of the engineers and the engineers are ahead of the OMA—if that's true, because I'm only going by perception. Wouldn't it make it a better job for all of us if we had that kind of data built up?

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**Mr Forward:** Agreed. I think transparency is important. Information sharing is important. Let me get you some information on the work we're doing with our regulators project, because I think that is the kind of project you'd be very interested in in this regard. We can get you the names of all the partners and we can get you some of the deliverables that we're going to be getting from that. We do have our current fact sheets. It sounds like what you're looking for is sort of an annual report on the status of success in adapting and integrating the internationally trained into Ontario's economy. We don't have that at the moment.

**Mr Hastings:** It seems to me that if we're going to get Citizenship and Immigration Canada to do a better job of targeting, under their new act, the types of people we need—and the act is supposedly to create an environment such that more skilled people coming into this country, before they arrive on our shores, already have, we say, certain levels of education and certain standards that they have established in their respective trades or professions. Then we can better manage the barriers we have in place, whether they're regulatory, financial or human, in terms of better utilizing these people's skills in the workplace, which we're not doing now.

It seems to me that the best way of doing that is to create an inventory or a registry that's readily accessible, that people can look at and say, "Yes, we're making real progress in these specific trades, but we're not doing so well in other areas." Because if skills shortages is a big public policy issue, as it is, then we need more accurate, up-to-date information in terms of the success, the barriers and what have you, if we're going to get a better-skilled newcomer to the country, rather than the sort of hit-and-miss that seems to be going on right now. To me, that's central for a competitive economy.

Ottawa needs to get with the script on that. They've made some progress in terms of that bill, and Coderre, I believe, has brought the citizenship ministers into consultation. We've got some access to a designated agreement

if industry wants to get such a thing going with Citizenship and Immigration Canada.

So my request would be that we see if we can make some better progress in that area in terms of the money we're spending. Then I'd have fewer frustrated folks coming through my door—and not just in my constituency, but I think most of the members' in this assembly, because I see so many people who are completely ticked off and very frustrated, whether it's with a regulatory authority, the province, the feds, the municipalities, the school boards or the universities. We don't have that kind of stuff. Maybe that's something we should be developing much more in terms of the planning going on, otherwise we're going to continue this hit-and-miss approach for the next 20 or 30 years. I don't think that's helping the people who are coming to this country.

**Mr Forward:** I wouldn't disagree. I think Ontario is a leader in terms of its work in this area, in working with professions, in sharing information products and in building bridges. I think the federal government could do more. I'd like to see the federal government look at the idea of mandatory overseas academic credential assessment so that you get your security check, you get your health check and you get your credential assessment; and you get your assessment overseas, so when you arrive here, you know you have a resumé that speaks to employers immediately, and you have the information about the steps you need to take. You could even take some of those steps before you arrive on our shores about how you begin to get your credentials assessed and how you get access to practise or to your trade.

So I think we can do better. I think we're working as hard as we can. We'd like to see some improvements from other orders of government. I agree it's an increasingly important issue.

**Mr Hastings:** OK. Thank you very much, sir.

**The Vice-Chair:** Mr Patten?

**Mr Patten:** Yes. You had talked earlier about increasing spots in the colleges in particular in the areas of special training, and one of the areas you mentioned was the whole medical field. We have shortages of nurses, and we have shortages of doctors. Now, why do we have shortages of doctors, generally speaking, as a profession?

**Mr Costante:** I'm assuming the population growth has required more, doctors retiring, doctors going out of province. I can tell you what we have done. We have increased the number of spots in the existing five medical programs in Ontario, and the Ministry of Health has been working on a similar type of program that we have been talking about for doctors in order to allow foreign-trained doctors to get their credentials earlier as well as the—

**Mr Patten:** This is foreign-trained, but this was after the provincial government cut back spaces in medical schools; is that not correct?

**Mr Costante:** That's correct.

**Mr Patten:** OK. So now we're trying to play catch-up in order to contain costs and one thing and another. I know it's not your area directly, but the same thing

happened with nurses. They cut back a lot of nurses, so a lot of nurses left. Now, there are still a lot of nurses who phone my office or whom I bump into who want to work and are skilled and ready to work. They're Canadian and they're not foreign-trained. They were trained here in Ontario. They still can't find spots because of the funding arrangements between the government and the hospitals. There's the discrepancy between nurses working in home care or in community care, who don't get paid very much at all because it's privatized and they just milk whatever they can from the nurses. They don't want to work at those rates in health care, so we have a problem there too.

So there are a lot of things we can manage that I know are not in your control but are related to general practices and relationships with the funding arrangements and standards in a regular city that exacerbate the situation. So while the trend does suggest that more and more of our population growth will be related to immigration, and therefore obviously our professions and labour force would be severely impacted, and ideally we will have an agreement with the federal government that would be meaningful and worthwhile for us—I'm going to check into some of the rationale and where the problem may lie etc—I just wanted to point out that it's a double-edged sword, that we have some policies that stand in the way and are barriers to not only foreign-trained professionals but professionals who were trained or are not able to be trained because of cutbacks in certain schools or professional areas.

**Mr Costante:** I think that's a very fair comment. Our job is primarily to deal with issues of supply. Wages are an issue, working conditions, shift work; all of those things I think impact on the desirability of a particular profession and alternatives. I think it's acknowledged that Ontario and Canada have very well-trained people here. A lot of well-trained people have been picked off by American companies etc, although we're seeing some success in bringing them back.

**The Vice-Chair:** Any further questions?

**Mr Costante:** Sorry, Mr Chair. I'm afraid I may have misled the committee earlier. I got confused between the LBS system and the Job Connect system. I think I'd indicated that we had already re-tendered the helpline on LBS. That's not the case. We're about to go to tender on that. I apologize for misleading the committee. It's just that the two things are very similar and I got confused.

**The Vice-Chair:** Deputy Minister, we thank you and your colleagues for attending the committee this morning and helping us better understand that section of the auditor's report that we're reviewing. Thank you.

Is there any further business? If not, I just remind the committee members that tomorrow morning at 9:30 am we will be in closed session to consider the 2002 annual report of the Provincial Auditor, with consideration of section 4.04, institutional services and young offender operations. We'll have an open session at 10. Thank you. We'll see you then.

*The committee adjourned at 1231.*



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## Legislative Assembly of Ontario

Third Session, 37<sup>th</sup> Parliament

## Assemblée législative de l'Ontario

Troisième session, 37<sup>e</sup> législature

# Official Report of Debates (Hansard)

Thursday 13 February 2003

# Journal des débats (Hansard)

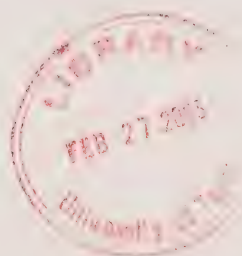
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## Standing committee on public accounts

2002 Annual Report,  
Provincial Auditor:  
Ministry of Public safety  
and Security

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Rapport annuel 2002,  
Vérificateur provincial :  
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## LEGISLATIVE ASSEMBLY OF ONTARIO

## ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON  
PUBLIC ACCOUNTSCOMITÉ PERMANENT DES  
COMPTES PUBLICS

Thursday 13 February 2003

Jeudi 13 février 2003

*The committee met at 1000 in room 151, following a closed session.*

2002 ANNUAL REPORT,  
PROVINCIAL AUDITOR  
MINISTRY OF PUBLIC SAFETY  
AND SECURITY

Consideration of section 4.04, institutional services and young offender operations.

**The Vice-Chair (Mr Bruce Crozier):** The standing committee on public accounts is now in session to review the 2002 annual report of the Provincial Auditor. This morning we're considering section 4.04, institutional services and young offender operations, with the Ministry of Public Safety and Security.

Good morning and welcome to the committee. Just a couple of things that I'm sure most are aware of. The ministry will have up to 20 minutes for an opening statement. I would ask that each person who speaks identify themselves for Hansard and for the committee's information.

I would also ask that everybody check their cellphones and see that they're off. We've had a couple of interruptions during the week that are rather disconcerting.

**Mr Peter Kormos (Niagara Centre):** What kind of people would bring a turned-on cellphone here?

**The Vice-Chair:** I can't imagine, but I just give that warning this morning.

After your opening remarks, we'll have rotation by the caucuses in 15-minute segments, beginning with the Liberal caucus. So there we are. We look forward to a pleasant morning. Deputy Minister, the floor is yours.

**Mr John Rabeau:** Thanks very much. My name is John Rabeau, and I'm the Deputy Minister for Public Safety and Security on the correctional services side. I'm joined today by Deborah Newman, Gary Commeford and Brian Low. Deborah is the assistant deputy minister for young offender services, Gary is the acting assistant deputy minister for adult institutions and Brian is the executive lead for alternative service delivery. They'll be here during the proceedings to assist me, as well as other staff who will be introduced when providing their expertise later on.

The ministry has reached significant milestones in its commitment to a correctional system that is safe, secure, effective and accountable. I acknowledge that we still

have a way to go, but steps are steadily being taken to obtain better results.

Today we'll be focusing on the institutional side of corrections—I know we're back here on Monday to talk about the community side—and we'll be talking about both adult and young offender services. While many of the issues may be inherent to both sides, for ease of focus I'll be highlighting the two functions of the ministry separately.

First of all, I want to talk about the adult operations. I want to provide a little bit of background for the committee to help our discussions. The ministry manages a correctional system that provides custody and rehab programs for offenders serving sentences of less than two years. The ministry also provides maximum security to hold individuals who have been remanded while awaiting trial, sentencing or other judicial proceedings. We're presently operating 35 institutions—34 publicly operated and one privately operated—and in 2001-02 held an average of 7,849 adult offenders at any given time. The Central East Correctional Centre in Lindsay will be receiving inmates later on this week, so the number of institutions will increase.

In 1993 the Provincial Auditor was critical of the operating costs and inefficiencies throughout Ontario's correctional system. Of particular interest, the auditor stated, "We also noted that Ontario's smaller institutions were quite old, with an average age of 124 years. Consequently, it is to be expected that the designs and layouts of these facilities do not lend themselves to an efficient allocation of staff."

At that time, Ontario had the most costly adult per diem rates of all the provinces in the country. This situation was largely the result of the ministry inheriting a number of old, less efficient county facilities in the 1960s, jails that were not built with the intention of fitting into an integrated provincial correctional system.

The auditor identified an opportunity to reduce inefficiencies in the correctional service system through the modernization or replacement of Ontario's aging correctional facilities. The auditor's report also identified a way to save taxpayer dollars by pursuing alternative service delivery opportunities.

After a thorough review of its correctional institutions system in 1996, the ministry, in keeping with advice from the auditor, outlined a multi-year modernization plan that included decommissioning a number of aging, less



efficient correctional facilities and replacing them with larger, more efficient facilities with modern operational designs. The plan also included upgrading and/or expanding some of the province's newer and ideally located facilities.

I'm going to ask Gary to hand out a chart so you have something to work with. I just want to give the committee an update as to where we are.

In 1998, we decommissioned the Cobourg, L'Orignal and Haileybury jails. In 1999, we completed the retrofits of the Toronto East and Toronto West detention centres. In the year 2000, we completed a security retrofit at the Hamilton-Wentworth Detention Centre. In 2001, we completed the expansion of the Maplehurst Correctional Complex, the male facility, which allowed for the decommissioning of the Waterloo and Wellington detention centres. We completed the construction and contract award for the operation of the Central North Correctional Centre in Penetang, which allowed for the decommissioning of the Barrie and Parry Sound jails and the Guelph Correctional Centre. We also decommissioned the Peterborough Jail. In 2002, the completion of the new construction at the Ottawa-Carleton Detention Centre allowed for the decommissioning of the Cornwall Jail.

This year, the completion of the Central East Correctional Centre in Lindsay has allowed the decommissioning of the Lindsay Jail, the Whitby Jail and the normal operations at Mimico. The Millbrook Correctional Centre decommissioning is to commence later this year. As well, the Burtch Correctional Centre was decommissioned, and the completion of the first two phases of construction at the new Vanier Correctional Centre, which is located on the site of Maplehurst, has allowed for the transfer of female offenders from the old Vanier site in Brampton to the new facility. The second phase, which is a retrofit project, is scheduled to be completed within the next few months.

Underway at the moment in Sault Ste Marie, the Algoma correctional treatment and remand centre will be completed this winter, which will allow us to decommission the Soo jail. The St Lawrence Valley correctional and treatment unit, phase one, in Brockville, will allow for the decommissioning of the Guelph assessment and treatment unit and the Millbrook assessment and treatment unit at the Millbrook Correctional Centre. The final phase of construction at the new Vanier Centre for Women in Milton will allow for the decommissioning of the female units in Hamilton-Wentworth and the Toronto West Detention Centre.

The contract has been tendered for the final phase of a retrofit project in Ottawa. Completion of this phase will allow for the decommissioning of the Pembroke Jail.

The contract is being tendered for the second phase of construction at the St Lawrence Valley Correctional and Treatment Centre, which will include both treatment and remand accommodations. Construction is to start later this winter. This will allow us to expand the present program that we operate at the Ontario Correctional Institute, which will move to Brockville with the completion of the project.

While there's a great deal of transformation activity taking place around the province, there have been some construction and decommissioning projects that were originally forecasted to have taken place that, however, have not started. This does not mean the plans have been cancelled. It's important for the ministry to continually revisit previously announced initiatives to ensure that our plans meet both our current and forecasted needs. A lot has changed since the review of the correctional system in 1993. We are now faced with a myriad of challenges that did not exist back then. We are, however, adjusting our plans to address the needs of this changing justice system.

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The justice system across Canada is experiencing unprecedented volume. Ontario is no exception. In fact, given our population, we are facing some of the most severe challenges in the country. While the ministry continues to take steps to restructure our institutions, the ministry is also working on strategies with our justice partners, such as the Ministry of the Attorney General, to alleviate some of the pressures being felt in our jails and detention centres, especially in the metro areas that are running at overcapacity.

A key factor in the overload of the system is not only an increase in the total number of inmates in custody but a fairly significant shift in our offender population. Between 1995-96 and 2001-02, the average daily inmate population in our adult institutions increased by around 500 inmates per day. This trend is continuing. So far in this fiscal year, the average daily count is over 8,000 inmates a day.

The more startling statistic, which is the crux of the overcrowding problem, is the increase in remand inmates. In 1995-96 we held an average of 2,400 adult offenders remanded in custody on outstanding charges. This represented approximately 33% of our offender population. In 2001-02 this number increased to an average of almost 4,000 adult offenders, representing more than 50% of the overall offender population. This year we have moved up, with remands representing approximately 55% of the population.

One might ask why the ministry is continuing to close jails if it's experiencing overcrowding. The simple answer is that we're not closing facilities without replacements. The facilities we've decommissioned thus far have been replaced by modern, new and more efficient facilities.

I want to speak a little bit about alternative service delivery. Partnerships in corrections aren't necessarily a new thing. All of our ministry's 45 open custody residences for youth are operated by a non-profit or a private sector partner and have been since 1985. Since May 1997, Project Turnaround, the ministry's first strict discipline project, has been operated by the private company Encourage Youth Corp. A number of people equate private sector partnerships with cost savings. Cost savings, however, are only part of the rationale behind exploring this type of operational approach. The in-



volvement of private operators in the correctional system can help introduce a competitive environment, which will promote and improve performance and efficiency throughout the system.

For over a year, the Central North Correctional Centre in Penetang has been progressing well under the operation of Management and Training Corp. The Central North facility has been a vital part in the ramp-up of commissioning new facilities, such as the Central East Correctional Centre, by providing beds so that staff at decommissioning facilities could attend training at the new facility.

The Central North Correctional Centre service agreement is monitored carefully with ministry officials on-site to ensure compliance with the specific terms of the operating contract that include appropriate levels of security and programming being provided. Local boards and monitors were created at both CNCC in Penetang and CECC in Lindsay. These boards, consisting of community-based membership, provide community input and advice in the operation of these facilities. They ensure accountability to the communities that host our facilities.

The Central East Correctional Centre is in the process of admitting its first group of inmates this month. The opening of this facility allows the ministry to begin taking a good hard look at private and public operations. Now that two facilities of equal size, design and service standards will be operating in tandem, we will be able to learn from each, expand on best practices and make improvements to either system as necessary. We will compare the results between the two facilities. The comparison will not only look at operational efficiencies such as costs, but more importantly we will look at performance outcomes such as recidivism rates and numbers of incidents at the institutions.

The ministry's new performance framework, which applies to private and publicly operated facilities, provides an operational standard that all facilities must adhere to. This framework focuses on measurable outcomes that will allow us to determine our strengths and areas that require adjustment.

The opening of the Central East facility also expands the operation of the cook-chill food production centre, located at Maplehurst Correctional Centre. Over the past year, the ministry has been working with its private sector partner to set up the production centre and plan for its rollout. A year may seem a like a long time to initiate the process; however, we're not talking about a pots-and-pans kitchen. When fully operational, the facility will be able to produce up to 30,000 meals a day. Last month, the Central North Correctional Centre started receiving cook-chill meals, and they are now being sent to Central East as well. Over time, it will be phased in to many of the larger central facilities, thereby allowing us to drive down the overall cost of food.

I'm now going to talk a little bit about young offenders. The ministry provides custody in secure facilities and open custody residences for young offenders aged 16 and 17. A multidisciplinary approach to young

offender programming is provided to correct unlawful and anti-social behaviour, while at the same time focusing on public safety and individual accountability. The ministry has four youth centres, one detention centre, nine young offender units in adult facilities, 45 open custody residences and one privately operated strict discipline facility. On any given day this past year, there were around 800 young offenders in secure custody and approximately 400 in open. The vast majority of young offenders, approximately 9,000, are supervised in the community.

As with the adult system, our young offender operations are also going through a massive transformation. The ministry recognizes that young offender issues are one of the biggest challenges we face. This past year we restructured the ministry to dedicate one assistant deputy minister solely to young offender services, where the portfolio used to also include adult community services. At the heart of the young offender operations transformation is the youth justice strategy. Essentially, it will create a youth-centred system aimed at meeting the particular risks and needs posed by adolescents. Young offender services will be provided at a level of security in accordance with the risk a young offender poses to the community. The principles of public safety and the reduction of recidivism through rehab programs form the cornerstone of a youth system that will hold young offenders accountable for their actions and behaviour. A multidisciplinary approach promotes young offender rehabilitation through teamwork and specific expertise.

In order to improve the delivery of young offenders' programs, services and supervision, the ministry has enhanced its training for youth officers and has also established a new youth worker classification that will be implemented in the near future. A key initiative involves the integration of all the province's young offender services. When implemented, the transition would see programs that service young offenders aged 12 to 15 transferred from the Ministry of Community, Family and Children's Services to the Ministry of Public Safety and Security. This will allow for a better use of resources and reduced duplication of effort, meet the government's commitment to enhance public safety and implement a comprehensive youth justice strategy that helps young offenders become responsible, law-abiding citizens.

The government is taking an important step by moving to a dedicated secure-custody system for young offenders. The dedicated system will focus on the programming requirements of young offenders and will be directed at achieving better results. As part of this dedicated system, young offenders currently residing in facilities shared with adults will be transferred to facilities solely for young offenders. Young offender services will be youth-centred, holistic and comprised of a well-connected continuum of programs and services distinct from adult offender services.

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So far, the ministry has removed the young offender units from the Wellington Detention Centre, in 1998, and



from the Elgin-Middlesex Detention Centre, in 2002. This was made possible by the recent expansion of our project at the Bluewater Youth Centre in Goderich.

The adult female offenders are being moved from the Vanier Centre this month, as I mentioned earlier, making way for work to begin on the site to create a new young offender facility to serve the greater Toronto area. The design of the current facility in Brampton makes it possible for the female young offenders to remain on the site while work is being completed on the property without interrupting programming or interfering with security.

Within the next few months, we'll be moving forward with plans, announced in May 2000, to construct two new young offender strict discipline facilities. These will be located in eastern and southwestern Ontario. The final site selection for these facilities is currently underway.

The ministry is preparing for the federal government's Youth Criminal Justice Act, to come into effect on April 1 of this year, replacing the Young Offenders Act. By that date, all provinces must be in compliance with the new legislation.

The memorandum of agreement respecting federal contributions to youth justice services was signed by Ontario in March of last year. The amendment grants Ontario flexibility to choose the services and programs that best address its needs and circumstances. The five-year agreement, which extends until 2004-05, provides up to \$357 million to the province for young offender programs and services, representing approximately 25% of the total cost of Ontario's current expenditures on these programs and services. Despite inadequate federal funding, Ontario will comply with the new legislation and seize every opportunity to ensure that Ontario's youth justice strategy maintains the highest level of public safety and assists young offenders in becoming responsible and law-abiding citizens.

I just want to do a little bit about cost and transition—

**The Vice-Chair:** Excuse me, sir. Are you nearing the completion of your remarks?

**Mr Rabeau:** Yes, I'm very close to the end.

**The Vice-Chair:** OK. We're a little bit over. Another minute?

**Mr Rabeau:** Yes, probably a minute and a half or so. I'm sorry.

**The Vice-Chair:** Sorry for the interruption.

**Mr Rabeau:** That's all right.

With our new facilities coming on-line and older ones being decommissioned, we are starting to see some results. Our per diem rates for the past two years were approximately \$138 a day, and they are beginning to drop. Our projected average per diem for both CNCC and CECC at maturity is approximately \$90 a day.

Through our program review, we took a good look at what our inmate population consists of and where the money is going. The basic fact is that jails and detention centres house a different type of offender than correctional centres do. So we're really trying to focus our services and program dollars on the sentenced offenders

in the two large facilities, and not on where folks are remanded to spend a relatively short time with us.

One last point: it's estimated that approximately 15% to 20% of our inmate population suffer from some form of mental health problem. Therefore, the provision of appropriate treatment programs is a significant requirement for the ministry. That is why the St Lawrence Valley Correctional and Treatment Centre is such an important project. In partnership with the Royal Ottawa Hospital, within the next few months we will be opening the first phase of operations at this new facility: the secure treatment and forensic units. Providing correctional and mental health forensic services at the same facility is a first for the province. Co-locating services not only provides a wider range of treatment capabilities, but it also reduces the need to transfer offenders between facilities and makes better use of professional services available. The contract for the construction work of phase two of the St Lawrence Valley has gone to tender, and it's expected that work for the new 300-bed unit will start this spring.

I think I'll just leave it there. I had a few more comments, but given the time, thank you very much.

**The Vice-Chair:** Thanks for your co-operation, sir. We'll begin the round of questioning with the Liberal caucus.

**Mr Dave Levac (Brant):** I want to take the time to thank the auditor for his report earlier. Thank you very much for your report. There's quite a bit, but I think I'll start where you left off. Why did it take 10 years to deal with the problem of mental health issues in jails, from 1993, when the auditor's report indicated there was a major problem that needed addressing?

**Mr Rabeau:** We had certainly been providing services in two specialized institutions, Guelph and Millbrook. I was not with the ministry back in 1993, so I'm not quite sure I have a direct answer to that one. Certainly there has been a fair bit of work done with the Ministry of Health and the Attorney General over a number of years trying to develop more appropriate responses at the community level for individuals who come into our system who have some form of mental illness. There has been a fair development on the community side to deal with that group of individuals.

We certainly recognize today that we're still presented with a fairly significant pressure in that area and feel that with the development of the St Lawrence centre and with the added expertise, we'll have a much better program and clearly a better link back into the mental health system that operates across the province on the community side. So we'll be using St Lawrence as an assessment centre for folks who present with mental health problems and ensuring that we transfer them back into the community with the kind of community supports and linkages they need to keep them healthier.

**Mr Levac:** I'm sure you recognize that one facility—and I'm glad to hear that it's under construction—is going to make it very difficult. If I'm not mistaken, that's 15% to 20% of the inmate population—and I would



editorialize here that I believe that's an awfully low number that's being presented, and I'm going to ask you about your research behind that—going across all the facilities across the province. So having one facility to do that is going to be very difficult to manage.

The second component to that question would be, is there—I asked the auditor—any research that indicates the number of 15% or even to 20% has been verified?

**Mr Rabeau:** Along with the Ministry of Health and, at that time, the Ministry of Community and Social Services, we did a fairly detailed analysis of our inmate population about four years ago, and that was the estimate of our population at the time, about 20%.

**Mr Levac:** I would encourage that that continue to be evaluated and that we take a good hard look at that, because one of the things I was hearing from correctional officers in my travels across the province was that, with 15% to 20% or even as low as 15% of the inmate population having mental health issues, training is very necessary for our correctional officers to cope with and adjust to the different type of client they're facing. I would encourage the ministry to take a good hard look at that as well.

**Mr Rabeau:** I just might add that as well as the St Lawrence centre we also have plans to develop another smaller facility like St Lawrence up in northern Ontario, in North Bay. Those are plans. At the same time, we're also operating a facility in Sault Ste Marie of approximately 80 or 85 beds for this group as well.

We also have psychiatric consultation available at all our facilities across the province, but I think we take your point. We recognize the issue, and certainly I think we recognize that our staff are looking at more support in this area and more training, and we're in the process of ensuring that we provide that.

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**Mr Levac:** Great. It's good to hear, too, that you're working closely with the other ministries, because that's an important factor in having any success in the program.

I'll shift gears a little bit, and quickly. I want to bring up Burtch. The reason I want to bring up Burtch is, number one, because it's in my riding. Number two, there were some concerns you raised about how efficient the cook-chill is going to be. I'm sure you know the history behind Burtch, as well as Guelph, in terms of its per diems being exceptionally low when they were fully operational when it came to production of food, the abattoir, the pigs, the farm operations, the vegetables. They were actually providing food for most of the institutions in the province and received exceptionally high grades when it came to the effectiveness. As a matter of fact, in one of the auditor's reports way back in the 1970s or 1980s it was received as one of the best-run institutions in Canada. Subsequent to that, we've just basically disintegrated it. That's my editorial.

I want to move on to its closure. The inmate population of Brantford is going to be transferred to Penetanguishene, and there has been a very large question about transportation costs. Where is the government at this time

in its negotiations with municipal police forces and police services boards and its distinctive and very real problem of transportation costs with people as far away as Brantford going all the way to Penetanguishene?

**Mr Rabeau:** I'll ask Gary Commeford to answer that.

**Mr Gary Commeford:** To answer your first question in respect to Burtch, yes, historically it was a very efficient and effective operation and was very diverse in respect of the animal husbandry and the crops that were grown there. I should point out, and I think it's important to note, that Burtch is a minimum-security institution, and at a minimum-security institution there has to be a certain type of inmate that reasonably can be put there, because the dynamic security—there is no fence around it, so you have to be assured that the inmates in that particular location are ones who are less likely to escape than somebody in medium or maximum security.

Due to the changes, as the deputy pointed out, in our remand population and the type of offender we've found in the provincial system for some years now, we do not have that type of inmate to the extent we once did. Therefore, populating Burtch with the number of inmates that would be required to make it efficient and effective is not likely any more. With these particular individuals now, you get probation, conditional sentence or various other diversion before they come into our system. So due to the fact that public safety and security is our foremost, we have to ensure we have the right types of inmates. That actually was a big factor in Burtch's continuing to operate.

As to the second question, the inmate transportation and the changes that have taken place around the restructuring and the opening of larger facilities, one of the commitments made when they went to this particular strategy was that we would not impact police transportation to and from court. As a result, we have an offender transportation project, and as a result we have made agreements with various OPP or local police forces to provide transportation back and forth from the courts. So we do have auxiliary OPP officers at Penetang, for example, who transport the inmates to the various courts who are still on remand and return them, as appropriate, when they are disposed of in court.

In respect to the sentenced inmates from the Brantford area who would be sent up to Penetang, we have made a commitment not only to the town of Penetang, but we will in fact return those offenders, upon completion of sentence, via our provincial bailiff's branch, to the locale where they were first arrested to be released. Therefore, they're not just turned out on the streets of Penetang; they are returned. That will be our process when we start to populate Lindsay as well.

**Mr Levac:** I'll leave that for other people to discuss further, because I know there are other concerns about transportation and whether or not municipalities have been in concert with that particular finding.

I want to switch gears again to the young offenders. The transition from Comsoc to the Ministry of Public Safety and Security is not complete yet; is that correct?



**Ms Deborah Newman:** That's correct. We're in the planning stages of effecting that transfer.

**Mr Levac:** Could you tell me, of the 60 facilities, how many are public; how many are private, for-profit; and how many are private, non-profit?

**Ms Newman:** I assume now you're adding our open-custody residences and our secure-custody residences?

**Mr Levac:** Correct.

**Ms Newman:** On the secure-custody side of our operations, we have one privately operated facility, Project Turnaround, which is a public-private partnership with Encourage Youth Corp. That's the only privatized secure-custody operation in the province for phase-two young offenders. On the open-custody side, all 45 of our open-custody residences are operated by the private sector, either not-for-profit or for-profit. Unfortunately, I don't have the breakdown of for-profit and not-for-profit here with me. If you're interested in that, I could certainly obtain that.

**Mr Levac:** I'd appreciate it. Is Sprucedale still publicly run?

**Ms Newman:** Yes, Sprucedale Youth Centre is still a publicly operated facility.

**Mr Levac:** Is it being used as a model of comparative, like you're doing with Penetanguishene and Lindsay, or you have made the decision you're going to go non-profit or for-profit?

**Ms Newman:** No. On the secure-custody side of our operation, we're measuring the results of all the publicly and privately operated facilities in terms of recidivism. So we're doing outcome studies of all of our secure-custodies as well as conducting what are called correctional program assessment inventories for all of our facilities. It measures the programs they are providing and how well aligned they are with positive outcomes.

**Mr Levac:** Can I dovetail from that into another question on the adult situation? Reference was made to recidivism. The concern I have is that I need to know the specifics behind that measurement, whether or not you're measuring the program within those facilities in the comparison between Lindsay and Penetanguishene. The claim has been, from the very beginning, "We're going to compare apples and apples," as opposed to apples and Volkswagens. I'm quite concerned about whether any of those indicators have been played out for everyone, so that they know exactly what those indicators are: the ramp-up time, the number of staff, the specifics of programs provided. Are they identical? Do they both have native services programs? Are they identical in all ways so that when you compare them they are apples to apples? My final editorial or question is, in terms of the recidivism, the outside influences must have impact on whether or not somebody comes back. What is being done about that?

**Mr Rabeau:** I'll pick up part of the response, and then turn it over to Brian in terms of the performance outcomes. We've been working a lot in developing those.

I think we recognize that as institutions are developing, it's certainly going to take time for facilities to ramp

up. We're expecting that as Central East comes on stream later this month, it will probably be six to eight months before it is fully operational. So from a measurement point of view we obviously won't be looking at things starting as of March 1.

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**Mr Levac:** I'm assuming you're going to hope that all of the comparators are done before the five-year contract is up.

**Mr Rabeau:** That is our intent and that has been our commitment, that five years out we'll be able to look at this fairly comparably. Brian, do you want to add a few points?

**Mr Brian Low:** Sure. If it would be helpful, I could speak a little bit more to the comparison study. We have, in the contractual arrangement with Central North Correctional Centre and for all our adult institutions, developed a performance framework, and within that framework we've identified the performance outcomes we're looking for. Those include seven different performance outcomes that we are involved in measuring, and we have identified what those measures are and what data will be collected. Over the term we will assess those and we will be looking at the results that come from each of the programs.

In addition, even through the ramp-up or start-up there are a whole variety of different factors that we'll be looking at in terms of the cost efficiencies and operation of the two institutions. So at this point we have the measures. Because each institution started up at a different point in time, we will be looking at comparables in terms of time, as they come to capacity and as they come to what we call their steady state. So during the next number of months, we will begin to introduce those measures at Central East as they ramp up, and then over the period of time and prior to making any decision on renewal of a contract with the Management and Training Corp, we will be assessing the outcome of that comparative study, and that will provide us with additional information as we make the decision on whether to proceed.

**Mr Levac:** Thank you. Mr Chairman, could I get a copy of the seven points that were mentioned by the deputy?

**The Vice-Chair:** I suspect they could provide that for you.

**Mr Low:** Yes, we can arrange to ensure that you have the outcomes that have been identified.

**Mr Kormos:** Thanks, folks, for coming by. How does one refer to inmates?

**Mr Rabeau:** "Inmates."

**Mr Kormos:** I just wanted to make sure. I heard a reference to them as "clients" and I thought, "Sweet Jesus! Clients, my foot."

You've got 8,000 people a day. Is that your count? Is that what you told us earlier?

**Mr Rabeau:** Approximately, yes.

**Mr Kormos:** With 55% of them on remand.

**Mr Rabeau:** Yes.

**Mr Kormos:** And that includes your adults and your senior level of YOs. Are you counting the junior level of YOs?

**Mr Rabeau:** That's only adults; YOs is on top of that.

**Mr Kormos:** OK, in addition to that.

You said—and I hope I wrote this down right—"There's a myriad of challenges that did not exist in 1993," and you enumerated some things after you said that. Were those the challenges you were referring to?

**Mr Rabeau:** That's right.

**Mr Kormos:** What were those again? Help me.

**Mr Rabeau:** The change in the type of inmate.

**Mr Kormos:** To wit?

**Mr Rabeau:** They're getting much more difficult. The inmates that Gary referred to, in response to Mr Levac, who used to go to Burtch, are really not coming into custody.

**Mr Kormos:** Burtch is primarily old men, as I recall. At least that's what the inmate population used to refer to it as; a 19-year-old didn't want to go to Burtch for love nor money because he figured there was just a bunch of old men there.

**Mr Rabeau:** I don't think that's correct.

The inmate mix has changed. The sentenced population has continued to drop almost every year since 1993.

**Mr Kormos:** So the sentenced population drops and the remand population increases; is that what you're saying?

**Mr Rabeau:** It's increasing.

**Mr Kormos:** Do we know how much of that remand population eventually gets out? You're talking remand for what, a week, two weeks, until there's a successful bail application?

**Mr Rabeau:** Our average length of stay on remand is around 28 days, and that has been rising over the last several years. About 40% to 45% of our population is with us for seven days on remand.

**Mr Kormos:** Do we know whether or not those are people who go in there, cop a plea and start doing their time, or are they people who eventually get released on some sort of bail?

**Mr Rabeau:** They get released on bail, and there certainly are some in there who will be copping a plea.

**Mr Kormos:** But not the majority.

**Mr Rabeau:** Not the majority.

**Mr Kormos:** So you're saying there's more remand population and that has put unique pressures on the system, right? It's one of the myriad of challenges. The majority of these people are being released, in any event, on some form of release order; is that correct?

**Mr Rabeau:** I'm just trying to think of the majority. Certainly in terms of the number of folks who are appearing in court on charges, the majority are coming from outside of the system, not being held.

**Mr Kormos:** So we have more-difficult-to-handle inmates; that's what you're telling us, right? What were some of the other challenges? The increased number of remand, right?

**Mr Rabeau:** Yes.

**Mr Kormos:** What else? Challenges that didn't exist in 1993.

**Mr Rabeau:** Those are the big ones.

**Mr Kormos:** That's two. You said "a myriad."

**Mr Rabeau:** The focus is where the challenges that presents because of those two factors places us under much greater pressure in the larger metropolitan areas. We're under huge pressure here in Toronto because of that. Our institutions that were meant for sentenced inmates aren't appropriate—either appropriately placed or have the level of custody that we require—for remanded inmates. Our remanded inmates are housed in secure facilities. The pressure and the problem we face here is that more folks are being jammed into secure facilities. That is quite different than 10 years ago.

**Mr Kormos:** You're right, but you said that we have less use for the minimum-security facilities. You're indicating that remands are inevitably in high-security facilities. Am I right in that regard?

**Mr Rabeau:** That's correct.

**Mr Kormos:** You also talked about some of the most severe challenges, I think you said, in the country, distinguishing Ontario, I presume, from other province. How is that? Explain that.

**Mr Rabeau:** Because we're larger, just because of our population.

**Mr Kormos:** So it's numbers.

**Mr Rabeau:** Right.

**Mr Kormos:** So it's not severe challenges; it's one challenge. We have a larger population.

There was a reference made to the ministry issuing an RFP for the electronic surveillance program. What's this electronic surveillance? That's the ankle bracelet, isn't it?

**Mr Rabeau:** I don't think I made reference to that. We certainly expect to be talking about that at some length on Monday. That's a community program.

**Mr Kormos:** You'd rather defer it to Monday?

**Mr Rabeau:** That's when we were prepared to—

**Mr Kormos:** OK, so you don't have the material with you? That's OK.

**Mr Rabeau:** We can speak to it, but we certainly are prepared to speak to it on Monday.

**Mr Kormos:** I understand. What do you have to say, then, about the status of the RFP for expansion of the electronic surveillance program?

**Mr Low:** Sir, I could respond to that.

**Mr Kormos:** Please.

**Mr Low:** The RFP that was out for the expansion of the electronic surveillance was closed last summer; that would be the summer of 2002. The contract was signed in September, and the program went through pre-conditions and was started in January of this year. So it's currently just beginning, and we are looking at a gradual ramp-up of that program into the province.

**Mr Kormos:** OK. It was signed with a company?

**Mr Low:** Yes, it was. It was signed with a company called JEMTEC Inc.

**Mr Kormos:** Where are they based?



**Mr Low:** That company is based in British Columbia.

**Mr Kormos:** I see. What is this company's background?

**Mr Low:** This company has a background in electronic surveillance.

**Mr Kormos:** Of inmates?

**Mr Low:** Yes, of inmates. They had, coincidentally, provided certain equipment that we had used in the electronic monitoring program that was a precursor to the expanded electronic surveillance.

**Mr Kormos:** It's the one that Mr Levac and I witnessed over in Mimico. Is that the one you're talking about, amongst other places—

**Mr Low:** That may be.

**Mr Kormos:**—where the drunks and the druggies lined up on Friday evening to pick up their ankle bracelet and then drove back home to watch TV all weekend?

**Mr Low:** That may be a perception.

**Mr Kormos:** I was there; he was there. Listen, I know a drunk when I see one. I come from Welland. We're not teetotallers there.

**Mr Low:** The individual would have to present himself appropriately to be able to be released.

1050

**Mr Kormos:** OK. Is this company out of British Columbia subcontracting any of its work?

**Mr Low:** Yes, as part of a contractual arrangement—and this was outlined in the RFP—it was recognized that the types of technologies we were looking at would unlikely all be held by one particular company.

**Mr Kormos:** But is it subcontracting any of its work?

**Mr Low:** Yes.

**Mr Kormos:** Who is it subcontracting it to?

**Mr Low:** There are different subcontracts. One is for the monitoring and installation of some of the technology, and that subcontract is with the Salvation Army. There is a—

**Mr Kormos:** Sorry. The monitoring and installation?

**Mr Low:** Of the technology.

**Mr Kormos:** The Salvation Army? Is this a new IT wing of Sally Ann?

**Mr Low:** No. I'm sure you're familiar with the fact that the Salvation Army has been involved in the corrections field in a whole variety of ways. As part of the subcontract, and just so you're familiar with this, there are a series of contractual obligations that a contractor has, which then are transferred directly to any subcontracts in terms of performance measures and so forth.

The subcontract in this particular instance revolves around the monitoring of the performance of the technology. It is a non-discretionary role. It does not involve supervision of offenders. Quite clearly, if you were to look at both the intent of the program and the contract we have in place, the ministry, through correctional services and our field staff, is in charge of the program and makes the decision in terms of what consequences or actions will be taken if there is a breach of any information and is responsible for the ongoing supervision of and case management for the individual.

The service we have purchased provides the technology—the actual tools—and in addition provides the monitoring so that if there is a breach, notice is provided to our staff, who then will take the appropriate action.

**Mr Kormos:** I recall the minister's announcement of this electronic surveillance program, and I guess we've all had a chance to see from the sidelines the implementation of it. How does the program fit into the broader corrections rehab and public safety—presuming rehab and public safety are the two functions of corrections. How does the electronic bracelet fit in to that?

**Mr Low:** Clearly from a public safety perspective, the electronic surveillance program provides one additional means of an enhanced opportunity for supervision of the offender while in the community.

**Mr Kormos:** Right. Rehab?

**Mr Low:** What it can also do is ensure that there is attendance at particular programs that have been identified. If those programs are in the community, it may mean that we can provide support for the person to be in the community while they are attending those particular rehabilitation programs in any of our core programs.

**Mr Kormos:** In view of the Criminal Code provisions that permit a judge to order a sentence to be performed in one's home—we're all familiar with that, aren't we?

**Mr Low:** Yes.

**Mr Rabeau:** Conditional sentence.

**Mr Kormos:** I just read a newspaper report down where I come from where a fellow got a nine-month conditional sentence and had to stay at home for molesting his daughter for a number of years. The judge decided that was where he was to serve the sentence.

Has there been any reflection on the utilization of electronic surveillance in view of the fact that courts now have, and for some time have had, the power to order sentences to be served outside the institution?

**Mr Low:** Certainly. Further, our colleague the assistant deputy minister responsible for community services will be able to provide a more detailed community response to that on Monday.

But this is a support to the decisions that may be made by the judiciary for something like a house sentence, as you've looked at. If that sentence is there and that is a condition, to this point in time we would not have staff who would be sitting outside that home to ensure that person is there. So this provides a further measure that would ensure there is compliance with the order.

**Mr Kormos:** But the electronic surveillance program that Mr Levac and I witnessed wasn't being utilized by inmates who were sentenced to conditional sentences; it was being utilized by inmates who were sentenced to jail, like second- and third-time drunk drivers, like drug dealers, inter alia, as they say.

**Mr Low:** I'm not sure I would have the specific information in terms of who would be in receipt of that. However, what you're talking about in terms of the community program is in fact the intent of the electronic surveillance program. This is an expansion to the com-

munity offenders who are serving the types of conditional sentences you're talking about.

We have had a program in place, a very small and limited program, for very low risk offenders who have been in the institutions and have been part of the electronic monitoring program that has been in place since 1996. Those particular inmates in that particular program—that has been continued and it is a very small component of what we see as the expanded electronic surveillance, which will do and respond to exactly the types of concerns you have, where there are people who have conditional sentences in the community, where we now have one further strategy, one further ability to provide supervision effectively, and that is the public safety approach to this.

**Mr Kormos:** What I'm getting to, obviously, is that judges sentence people to weekend sentences or intermittent sentences, not necessarily on weekends, so these people can be out during the week, and there are a whole lot of people who seem to think that the electronic bracelet—and I'm referring specifically to what I saw at Mimico; there were people lined up. It was like lining up at the butcher's counter at Zehrs: pick a number, pick up your bracelet and then go home. A whole lot of folks seem to think maybe they were wrong, maybe all these people were wrong, that this was simply a way of reducing the intermittent population, in this case at Mimico. What's going on here?

**Mr Rabeau:** I'll answer that. For some time, for many years, Mimico has operated a program for intermittent-sentenced inmates, and it's based on two factors: one is any intermittent inmate was provided the opportunity to perform a community service on the weekend, which had to be investigated and approved as an appropriate community service—

**Mr Kormos:** Are these the ones John Howard, amongst others, were supervising, where you go out in a work gang and paint parks and stuff like that?

**Mr Rabeau:** There was that, there were the highways, there were various non-profit groups.

**Mr Kormos:** And these people were being actively supervised, as I recall.

**The Vice-Chair:** We have to let him conclude the question, because we're a little bit—

**Mr Kormos:** Oh no, we're just dialoguing.

**The Vice-Chair:** Well, we're a little bit over time, so the dialogue has to be short.

**Mr Kormos:** Ah nuts, I've got to wait my turn again.

**The Vice-Chair:** Yes.

**Mr Kormos:** All right. Thank you, sir.

**Mr Rabeau:** They were, in fact, being approved and the inmate was given the opportunity to provide the service and then was allowed to serve the evenings at home and had to report every day. However, part of it was that the inmate had to show up at the institution in an appropriate state, not under the influence, and ensure that he had performed his service the week before. This was done on the basis of an evaluation of the individual's

present and past history before he was given this opportunity.

That was a very large program over a large number of years. Subsequent to that, we instituted, as Mr Low stated, a minimal, which we described as electronic, home incarceration program, and it was based, similarly, on community service. But we also have a number of rehabilitative programs that inmates will be enrolled in, and they have to do with substance abuse, alcohol abuse and anger management. So an inmate, if they passed and they qualified, did in fact have the opportunity, under an electronic bracelet program, and that's how we monitored that they were in fact in their homes.

**The Vice-Chair:** Thank you. Perhaps we could pursue that a bit more in the next round. I'm sorry to have to interrupt. We move on to the government caucus.

**Mr AL McDonald (Nipissing):** Thank you for attending today. I have a number of questions in different areas. I want to start off with the video remand program, or the lack of the video remand. When I sat on the police services board up in North Bay, one of our concerns was that if we had to transfer prisoners or inmates to make court appearances—first appearances or whatever, and I guess it takes all of 10 minutes—we were sending police officers from North Bay over to Sudbury to pick up the inmate, bring him to North Bay, which is a three-hour round trip, to spend 10 minutes. The technology is available that we can do a video remand from Sudbury, and there's a concern about safety, first, for the inmate and, second, and as important, for the police officers who have to travel some of these northern highways when the conditions aren't the best. Where are we with that project?

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**Mr Rabeau:** The video remand project has expanded significantly over the last three years. Certainly I can tell you that it's available in North Bay now, both at the police station and at the courthouse. But in most of our facilities we now have video remand capability, and there are a number of courts across the province that have video remand capability as well. The program is still being rolled out. I don't know specifically where it is with the court system, but I know our system is pretty much completely operational at the moment.

It has had a very significant effect on the number of inmates who have had to be transferred from the institution to court just for a remand. As the courts become more familiar with it and attuned to how it operates, we're seeing some fairly significant changes in the number of inmates who are having to be discharged to go to court and then brought back in the same day.

It started as a pilot when we began this in London, Ontario, and approximately 40% of our inmates who used to go to court are now being dealt with through video remand. So we think it's a very successful approach from a public safety point of view in that inmates aren't out. It reduces the demand on the police forces for transportation, which is a big issue, and in fact it has improved the efficiency of the courts in that they are able to manage these a lot more quickly than in person.



**Mr McDonald:** The cost savings alone are incredible if this project is rolled out across the board, across the province. Not only would there be a lot of cost savings for municipalities and the police services but in the correctional facilities as well. From my understanding of the project, it's a very successful pilot project. Why do we not at this point have it right across Ontario? Could you tell me where the situation is in concert with North Bay, and are there issues in the courthouses regarding video remands?

**Mr Rabeau:** Yes, there are. I mean, there are issues everywhere. One of the reasons it hasn't rolled out everywhere in the province is that the technology is just not there in parts of the province. We require special high-speed lines for the transfer of the video portion. They're relatively expensive lines to operate, and a number of communities don't even have the lines. So in part we haven't been able to roll out the capability everywhere in the province. It's a matter of available resources and getting the right technology in varying communities.

Certainly we see that the biggest savings rest with the policing community, either municipal and/or OPP. Because they're not having to transport, that's a significant savings for them. On the institution side, I think there are some savings for us, but we're still having to manage the inmates, whether we're discharging them or bringing them down to a video suite. It does help in terms of public safety if somebody isn't out in the community. I can only speak for corrections here. We can do this pretty much in every one of our institutions now. The courts are coming on, I think, 30 or 40 a year. So it's going to be pretty much out and developed by the end of next year. I could get the detail for that; I don't have all that with me, Mr McDonald.

**Mr McDonald:** Where are North Bay and Sudbury in this loop?

**Mr Rabeau:** Both facilities have the capacity, and I believe the police force in North Bay has it. I think they're all up and operational and connected with the courts, our facility and the police. I believe it's fully operational, but I would have to find that out for you.

**Mr McDonald:** So you're not aware if it's operating in the city of North Bay or the city of Sudbury at this moment?

**Mr Rabeau:** I'll have to ask, but I thought it was operational in both communities.

**Mr McDonald:** If I can just go to diversion, which I think is a wonderful project, I understand there's a project, I believe it's in Ottawa, where individuals come before community leaders if they have committed an offence or a first-time offence and community leaders decide on the appropriate punishment. In other words, we are trying to keep these individuals out of our jails and create some meaningful reprimand, if you will, regarding the minor offence they committed. Can you give me a bit of info on that?

**Ms Newman:** You may be thinking of the young offender system, Mr McDonald, where there are some active pilot programs with respect to diversion of young

people from the formal court system. There have been pilots around the province.

Also, the Ministry of the Attorney General has operated youth justice committees, which are comprised of community members, and a young person can be diverted to the youth justice committee from the formal court system. They can determine what an appropriate sanction might be for that young person, which could involve making reparation for the harm they caused to the victim. Victims participate in this process as well. That's going to be expanded quite significantly under the new Youth Criminal Justice Act, which comes into force on April 1 this year. There's significant emphasis in the new legislation on diversion and alternative programming, referred to as extra-judicial sanctions, just because it's hard to say, I think. But there are going to be more opportunities for young people to repair harm done outside of the formal court system.

**Mr McDonald:** I have two further questions; one is on health care within the ministry. As we know, North America is facing a nurse shortage. Where are we within the ministry when it comes to nurses? If there is a shortage, what plans have you implemented to correct that?

**Mr Rabeau:** We definitely do have an issue with attracting nurses. We have approximately 360 nurses working for us at the moment, but like every other health care provider, we are having trouble attracting folks. There was a problem of wage disparity, particularly between the public sector and the hospitals. I think there was a fair movement with the last contract with OPSEU that sort of collapsed that disparity, so I think that's helpful.

Just recently we've looked at bringing in registered practical nurses, RPNs, to support our registered nurses—we've gone through a regulation change—hoping that we're able to change our practice somewhat in terms of how nursing services are delivered in our facilities, so we can focus the expertise of our registered nurses in the areas where they're most needed. We are also, I think, trying to improve support and training to our nursing cadre within the institutions, trying to make a better environment for them to work in.

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**Mr McDonald:** One final question—and I understand Mr Chudleigh has a question. In this document, committee recommendation number 9 was, "The Ministry of Correctional Services should assess the effectiveness of the recent initiatives to resolve absenteeism and overtime problems in the correctional system." There is something on page 17—I'm not sure if you have this document—

**Mr Rabeau:** I do.

**Mr McDonald:** —that states, "Management Board Secretariat supported the ministry's recommendation to introduce a 20% cap to the attendance threshold, so that continued high sick credit usage could no longer force new thresholds higher."

What does that mean?

**Mr Rabeau:** Certainly one issue identified in the report was that we've had a very significant problem with



absenteeism in our organization. I think it was remarked on a fair bit the last time we had an opportunity to come before this committee.

We've initiated a number of programs over the last couple of years, of which we've started to see some effect. The absenteeism rate has dropped over the last couple of years. We haven't got our final figures for calendar 2002 yet, because of year-end close-off, but we think it's fairly close to what we were experiencing last year. On average it's around 14 days per employee, which is still relatively high.

The reference to the 20% cap rate would allow us to implement our attendance support program that we use for folks who are having problems. Once they reach a threshold of 11 days—if they've been absent 11 days—we will institute a program to deal with their attendance problems. Up until this year, the threshold before we applied the program was somewhere around 15 or 16 days. I think we've been able to retool the program through Management Board to ensure that we can perhaps get at problems earlier than we have been able to in the past.

**The Vice-Chair:** Thank you. That hit it right on the button that time: 15 minutes.

We'll move on to the Liberal caucus.

**Mr Richard Patten (Ottawa Centre):** Good morning. I see a few familiar faces from the little time I spent at the ministry. Right off the top I want to offer you my condolences and some degree of empathy with what is obviously a different focus on corrections by this government, with their fascination for the American model, and all of us knowing especially that the Americans have 10 times the incarceration that Canadians have, and the concept of warehousing and of bigger institutions, privately run, doing away with some of the community programs. I'd be very anxious to hear about and review the community programs that have been seriously hurt. Looking at the time frame of two years less a day, with an option for parole after a matter of months, the challenge of corrections or rehabilitation has to be supreme in this context.

I would like to ask you what your definition of efficiency is, because I know that is politically influenced, or what is the definition you have to live with? What is your definition of efficiency, because of your studies, as you referred to in your presentation.

**Mr Rabeau:** I think it's fair to say that our ultimate driver as an organization is that we're in the business of corrections, which in our view is correcting behaviour. The ultimate driver for us is the reduction of recidivism. I think that is relatively new in any correctional operation I'm aware of, where there's a public commitment on our behalf to annually publicize our rate of recidivism, in terms of the number of individuals who are returning in to the system, if in fact we've had an opportunity to deal with them in custody for more than six months or whether they've been on probation. So from an efficiency point of view, the first driver is, are we reducing recidivism? That is the primary one.

Specifically in terms of efficiency, we're wanting to achieve those results at the least possible cost. We feel, in terms of our focus at the moment, that in being able to specialize our interventions in groups which are large enough to gain the economies, we're going to be able to do a fair bit to begin to deal with this problem.

I think, as we were running smaller institutions, that we were trying to do everything everywhere and our sense, in terms of looking at where we were, was that we weren't getting the kind of value for money or the efficiencies in doing that. We really are wanting to specialize in larger institutions where we can serve larger groups with the kind of expertise and the types of programs we can develop that we think will work to deal with that.

**Mr Patten:** What would be your trend now in terms of recidivism? If you look at the last 10 years, has it gone up? Has it stayed the same? Has it improved?

**Mr Rabeau:** I think one of the issues we've had is that there really has never been a clear definition of recidivism. There is one we've developed to try to ensure that we've got some commonality. As an organization, we weren't routinely collecting recidivism data. We had certain parts of our organization that were doing that, but as a whole, that wasn't something we had been doing over the last 10 years. It wasn't until the last year and a half that we've come to agree on the definition of recidivism and are starting to develop the kind of information systems that are going to allow us to keep track of that. So it's relatively new.

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**Mr Patten:** I find that somewhat difficult to understand. I know probably the best area was the young offenders, where I think the stats were pretty good 12 or 15 years ago. I'll wait for that, and I recall we had some trends there.

My assumption would be: that to the degree the cuts that have been imposed upon your ministry, on the community programs and your community partners, which are the most efficient, in my opinion, economically—it makes me wonder why so many of them were cut with such a cost-conscious government, where the bottom line is the almighty dollar, that those relationships were hurt, hampered. Some of them have been re-established—I'm aware of that—but going back to 1995 now, when very quickly the government moved to dump a lot of voluntary organizations, that has hampered the ability to reintroduce people to the community. The pressures on the probation and parole officers are tremendous. They've got workloads of 400, I'm told, maybe even more in some cases. It's impossible to counsel, manage, suggest relationships for better ways of re-establishing community life and all those sorts of things. So as an individual, I become quite concerned.

That recidivism one way or another means the person is returned to the institution through some kind of legal violation, whether it's a parole violation or whether it's a recommitment of a criminal act or whatever it is. I mean, the person comes back into the institution. I think a few university students would probably have those stats,



could run through all of those. We should be able to find them, it seems to me. With the increased opportunities for electronic computations, it seems to me that we should be getting those. If we don't have them, why is that? Are you short of money for your statistical management systems?

**Mr Rabeau:** Maybe you misunderstood. In fact, we do have them now. I was responding more to your question of over 10 years. Those are numbers that I've got available. We do now have a system that is tracking this, and it is electronic. We're looking at a recidivism rate of 52% to 54% on the adult side. It's a little different in terms of the young offenders.

I know that on Monday we are going to be talking about the community side. I really want to react a little bit to this 400 to one. I'm certainly not aware of that ratio anywhere, but we're prepared to get into more discussions as we deal with the report around the community services, which we're doing here on Monday.

Deborah, who has been around this ministry much longer than I have, even though she's a lot younger—

**Ms Newman:** Thank you.

**Mr Rabeau:** —can perhaps add to my comments.

**Ms Newman:** Thank you, Deputy.

I'd like to provide some updated information, although we will be talking in more detail about community corrections on Monday. But just to respond to some of your concerns, Mr Patten, we have in fact restructured community corrections in about the last three years and introduced a new service delivery model in probation and parole that has allowed us to focus the resources of our probation and parole officers on the highest-risk offenders, those who require intensive supervision. So rather than having probation officers meet every individual on their caseloads one to one, we've implemented a new model that is based on extensive review of the "what works" literature in terms of reducing recidivism. So they are spending more time with the high-risk offenders. Individuals are in fact streamed into four different levels of risk based on a comprehensive assessment at the front end, so the way in which offenders are supervised in the community is very much more linked to empirical research about what works.

Coupled with that, we have completed a hiring initiative and hired 165 more probation officers in the last two years, which had the effect of reducing the average caseload in the province to 85, just to provide you with a more current statistic. We still continue to struggle with workload issues in probation and parole; it's very demanding work. But the caseloads have in fact been reduced, and we're trying to focus our resources to get the best result.

**Mr Patten:** If your overall remand numbers have gone up 55%, which is an incredible percentage, it suggests to me that your overall population outside of the remand is less than what it used to be. To what degree?

**Mr Rabeau:** I've got that—

**Mr Patten:** This is the aging of the baby boomers; not so frisky.

**Mr Rabeau:** Sorry. I have that number here somewhere but I can't find it right at the moment.

**Mr Patten:** You suffer somewhat, as you can't refuse somebody who is sent to jail; you must take them.

**Mr Rabeau:** That's right.

**Mr Patten:** And then you have to handle them with the resources you have. So if the court system is slow or there's a hell of a backlog, you have to take those from both the federal and the provincial level and respond accordingly. When you have cutbacks, that makes it very difficult for you and your resources.

My concern is that the research I've seen suggests that centralization in place of smaller units—you can have centralization with smaller units, but when you remove all the smaller units, let alone the impact on some of those smaller communities economically and community-wise, you get fewer family visits; you get more alienation from home for the inmates, and it is a sense of institutionalization in the lifestyle of the inmate. That does not bear out to be more successful in terms of rehab. What would your experience be, seeing that it seems to be moving in that direction?

**Mr Rabeau:** Again, I think we're obviously in a position of having to balance a number of things. On the one hand, an observation that the auditor made about our system back in 1993 was that it was the most expensive system in the country. In part, I think that was due to the number of small institutions spread across the province. So I think as a response to that, there was clearly a move at least to do some centralization.

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I think our focus has been trying to ensure that for those individuals who are in custody because they're remanded, they're still before the courts, we're able to keep institutions relatively close to communities and to courts, albeit they're perhaps not as close as they used to be because we've closed facilities that were small and extremely old. We just closed Cornwall a couple of months ago. It was built in 1835 or something.

Our sense, as I mentioned earlier as well, is that we're going to get much better results by being able to specialize our treatment and program resources in fewer facilities. But we really do have to pick up on your point of ensuring that our inmate population, when discharged, are linked back into their communities.

**The Vice-Chair:** Thank you. We'll pursue that further in the next round.

**Mr Kormos:** An 8,000-a-day count of inmates, 55% on remand, so that means 3,600 a day are serving sentences. How many of those are people who are serving sentences in lieu of payment of fines?

**Mr Rabeau:** I don't think there are very many. I haven't got that number handy, but I would suggest that it's extremely small.

**Mr Kormos:** If it's available, I wonder if you could—I don't know if you're the same folks who are coming back next week, but if somebody could bring that, I think that would be interesting.

**Mr Rabeau:** OK, we'll try to do that for you.

**Mr Kormos:** I'm down from Niagara. We've got the Niagara Detention Centre for the moment. If I'm serving a sentence of less than 90 days, I'm inclined to serve it at the local detention centre down there, is that right?

**Mr Rabeau:** That's correct.

**Mr Kormos:** So if I'm serving a 60-day sentence, what's my day like at the Niagara Detention Centre, as an inmate participating in a rehabilitative correctional system?

**Mr Rabeau:** I'll refer that to Gary.

**Mr Commeford:** If you're doing a 60-day sentence and you behave yourself, you're probably going to get out in 40 days anyway. Individuals who remain in the detention centre for the most part will in fact be employed in some kind of work in the detention centre, a lot of times in housekeeping or in food service. I don't know specifically, but certainly there would be a volunteer program available through the institution, through volunteers. I can't speak specifically for—

**Mr Kormos:** Tell me about the volunteering.

**Mr Commeford:** Volunteer programs: we have religious visitors from various sects, we also have AA, NA, Gamblers Anonymous, self-help groups like that, which also links to what the deputy said about contacts with the community when people are released. There are in a number of facilities, and I can't speak specifically for Niagara, correspondence courses, and a number of our facilities do have contracts with local school boards in that particular circumstance. That would be basically how individuals who remain at a detention centre would fill their time.

**Mr Kormos:** Let's go to a correctional centre. Tell me about my day in a correctional centre, if I'm serving a 12-month sentence for a serious assault, let's say.

**Mr Commeford:** There are particular programs available at correctional centres as they exist today. Many times they were isolated to their particular facility. The programs, although of a high calibre, were basically created by the facility themselves and the professional staff available at that particular facility. With the new organizations and the new types of institutions we're building, as the deputy mentioned, we are putting together core programming. What that means is, each of our institutions that house sentenced prisoners will have the same type of programming; it may deviate somewhat but it will have to be accredited by one of our branches, in North Bay, that deals with programming. What we're trying to do in this particular case, and it relates back to the issue of recidivism, is to provide the same type of programming at all our institutions, whether it deals with domestic violence, substance abuse, literacy, numeracy, whatever happens to be the issue of that particular individual.

What we're also doing, and haven't done previously, is linking this program to the community. The majority of our offenders have probation to follow. We found, certainly in the review of the literature, that there has to be an exposure to a certain intervention for a certain period of time before you would have an impact on recidivism. With the limited time we have people in

custody, as you've pointed out, we need this link for people, for probation to follow if we're really going to follow through in a continuum of treatment throughout the system, whether it's in the institution or in the community under probation supervision.

**Mr Kormos:** "The ministry indicated to us that it was developing better programs to help inmates reintegrate successfully into the community."

**Mr Commeford:** That's what I'm referring to.

**Mr Kormos:** What's the status of that?

**Mr Commeford:** We have in fact got the approval, and as the institutions come on line, there will be an expectation that they will be providing those programs.

**Mr Kormos:** If I'm attending academic classes in a correctional centre, how many hours a day am I in class?

**Mr Commeford:** As it exists at the moment, it really depends, again, on the institution you're at. Some have much more refined educational programs than others. You may be in class anywhere from two hours to possibly four hours a day. We did at one time have a very large education program at Maplehurst.

**Mr Kormos:** What happened to that?

**Mr Commeford:** The majority of inmates at Maplehurst are remanded inmates. At one time at Maplehurst we used to have a majority of sentenced offenders. There were 432 sentenced offenders. With the building of our remand capacity, based on our statistics, we only have 200 sentenced males there right now. They are in fact very short-term individuals who work in the cook-chill and do work around the complex.

**Mr Kormos:** But you say Maplehurst had the most intensive academic program in the province?

**Mr Commeford:** It did at one point.

**Mr Kormos:** So where has it been implemented if it's no longer needed at Maplehurst?

**Mr Commeford:** There will be literacy and numeracy programs available at the other larger institutions, both Penetang and Lindsay.

**Mr Kormos:** Literacy and numeracy?

**Mr Commeford:** That's correct.

**Mr Kormos:** What about academic programs that are in tune with, let's say, secondary school goals?

**Mr Commeford:** Conceptually, the idea is to prepare the individual inmate to follow up on this when he's released from custody.

**Mr Kormos:** What if I'm already literate but I only have a grade 9 education? What happens to me?

**Mr Commeford:** You could do it through correspondence. A correspondence course would be available to you, but there wouldn't be the formal academic classroom as you would have found at Maplehurst previously.

**Mr Kormos:** So that type of program has been abolished?

**Mr Commeford:** That's correct.

**Mr Kormos:** What about job training programs? What about if I'm in there and I have an aptitude for being a welder or working in a weaving shop or a textile shop or doing metal fabricating or doing carpentry? If I had those aptitudes—and I don't—what kind of programs



would you have for me to make sure I'm a little more employable when I get released, assuming I'm in there for 12 to 18 months? You've got a lot of time with me.

**Mr Commeford:** We have to in fact develop our programs on the average-day stay of sentenced offenders. Our average-day stay for a sentenced offender is not 12 to 18 months.

**Mr Kormos:** I understand that.

**Mr Commeford:** We don't really have them long enough to qualify for apprenticeship programs. What we will have available—for example, we do have industries that are run by Trilcor that will be available at Lindsay. You're not going to walk out of there with any kind of apprenticeship program, but you will walk out with the issue of providing a service and being at a job and in expectation of a job on a daily basis.

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**Mr Kormos:** I guess I'm being nostalgic because, gosh, I remember back 25 or 30 years ago, if I was in a place like Guelph, for instance, there were agricultural programs, horticultural programs and machine-shop programs. Was it Guelph where they had the textile program?

**Mr Commeford:** Yes.

**Mr Kormos:** Maybe this is dating me, but what happened to those programs?

**Mr Commeford:** We still have the textile program, and that's going to be moved up to Lindsay.

**Mr Kormos:** What about the horticultural program?

**Mr Commeford:** The horticultural programs, no. We don't do those any more.

**Mr Kormos:** Why not?

**Mr Commeford:** Again, it had to do with the type of inmate that was available.

**Mr Kormos:** What does that mean?

**Mr Commeford:** A horticultural program, for the majority of time—I've been around 25 years too, but I think they predated me in the horticultural programs. A lot of that is done outside the fence. A lot of it is done in an open setting as opposed to a closed setting. Again, it goes back to the security aspect.

We have maintained some of our industries and will maintain some of our industries at Lindsay that will provide people with a routine of work, such as, as I mentioned, the weaving, the licence plates manufacturing that we do presently at Millbrook, which again is very labour-intensive, so it keeps the inmates busy but does teach them a routine and a work ethic. That's an expectation. We'll also have inmates who will work at the cook-chill at Maplehurst. We have a limited number of inmates who provide a landscaping service to our various facilities. That again is run under Trilcor, and we take inmates. We have a—

**Mr Kormos:** We used to have them do it out here at Queen's Park, didn't we?

**Mr Commeford:** We still actually do. We still do bring gangs in—

**Mr Kormos:** From time to time I run into somebody whom I knew or know, friends.

**Mr Commeford:** I have occasionally as well. So we still do have these programs.

**Mr Kormos:** I guess I'm concerned about the paucity of these types of training programs, and again concerned about your reference to utilizing the average length of stay and creating programs for the average length of stay, because it seems to me that a guy like me who's doing 18 months, which is on the higher end of provincial sentences, then gets squeezed out because you have to design programs for the average length of stay. So the guy who presumably is a more serious offender, does he—or she—miss out on programs because you're designing programs for the average length of stay?

**Mr Commeford:** No, they'd still have the opportunity to take the program. The programs in fact would rotate over various periods of time. I mean, they could still take the program. In that particular case of somebody doing 18 months who takes the program, there is the probability that they may qualify for parole earlier in their sentence because they've done something positive to change their behaviour. In that particular case, when they go on parole they could pursue the programming further in the community on that basis. So it does have an effect.

**Mr Kormos:** It seems to me that toward the end of last year this Legislature passed legislation that provided for grooming standards in jails.

**Mr Commeford:** Yes.

**Mr Kormos:** Tell me about the implementation of that. How many haircuts?

**Mr Commeford:** How many haircuts?

**Mr Kormos:** Since it was passed.

**Mr Commeford:** I'm sure there have been haircuts. I don't know if they're a result of passing the bill.

**Mr Kormos:** OK, but tell me about the impact of the bill on our correctional system. Tell me about its implementation.

**Mr Commeford:** There always was a standard for inmate behaviour, and grooming was part of it. One of the rationales for that is that when you live in close quarters with a lot of other people, your personal hygiene becomes an issue.

**Mr Kormos:** There's something self-regulating about a cell block or a range, isn't there?

**Mr Commeford:** And other people will regulate it for you if it's not appropriate.

**Mr Kormos:** Yes, exactly.

**Mr Commeford:** It's the whole issue of an expectation. Again, around the whole classification system and the programming aspect, we are in fact going to implement a new classification system. Part of that classification system will be done at the new institutions. The individual will be assessed for his needs around programming but will also be expected to adhere to certain behaviours, routines and expectations. One of them will be grooming.

**Mr Kormos:** OK. I don't know if you were at any of Mr Runciman's press conferences—

**Mr Commeford:** Yes, I was.

**Mr Kormos:** —while this bill was announced and while it was weaving its lengthy course through the Leg-

islature, but there was a sense of urgency being expressed by the minister about the need for these grooming standards, as I recall it, right?

**Mr Commeford:** Yes.

**Mr Kormos:** OK, so now that the bill's passed, tell us about its implementation.

**Mr Commeford:** The implementation is—as I said, we're moving along as part of a whole process. It's all part of the whole programming for the inmate. It's moving along as quickly as possible, as reasonably as possible, and it has a lot to do with the programs that will be available at the new institutions.

**Mr Kormos:** So are there new standards around grooming as a result of the legislation?

**Mr Commeford:** They are under development and will be in fact implemented in the system.

**Mr Kormos:** Can you give us any hints about what the new grooming standards will be?

**Mr Commeford:** The idea will be that inmates will have to keep themselves clean, tidy, have a neat appearance, wear their uniforms appropriately and carry themselves in a reasonable manner. This is for protection of staff as well.

**Mr Kormos:** No quarrel. You've got to help me, because I want to know how that makes the new regime different from the old regime. What can happen now that couldn't happen before the bill was passed?

**Mr Commeford:** What can happen?

**Mr Kormos:** Yes, that couldn't happen before the bill was passed.

**Mr Commeford:** The expectation is that the inmate will adhere to that, and if he doesn't, then he can in fact be charged with an institutional misconduct, and that will be adjudicated by the superintendent. The individual could lose some earned remission, which will mean they would stay in custody longer.

**The Vice-Chair:** Thank you. We'll move on to Mr Chudleigh and then I think to Mr Hastings, also.

**Mr Ted Chudleigh (Halton):** You mentioned earlier in your remarks, Deputy, that in a release from Penetang and potentially in a release from Lindsay, the prisoner would be returned to the community in which he was first arrested. Does that happen also at Maplehurst?

**Mr Rabeau:** Yes, it does. As Mr Commeford mentioned, the population at Maplehurst has changed quite significantly and most of the inmates there are from that part of the GTA. But if somebody is just discharged, we are ensuring that they're getting to transportation. If they're from Toronto, they're brought into the north—

**Mr Chudleigh:** So they're not taken to Toronto; they are probably taken to the GO Train. Is that the way it works?

**Mr Rabeau:** Yes.

**Mr Chudleigh:** Is that the way it also works in Penetang or will work in Lindsay?

**Mr Rabeau:** No. Because most of them are sentenced inmates, our intention is to return them to the institution from which they were sentenced. So if they came out of the Hamilton jail, for example, our intent is to have them

transported back to the Hamilton jail and then discharged from there.

**Mr Chudleigh:** So why would the prisoners who are in the process of being released from Maplehurst not undergo that same process, rather than being taken down into the middle of Milton, dumped off, and they wander around, wondering when the next bus is going to come?

**Mr Rabeau:** Basically, one of the things we deal with at our remand facilities is that folks are let out by the courts, so most of the time it's not a planned discharge on behalf of the institution.

**Mr Chudleigh:** I'm not talking about the remand ones, I'm talking about that part of the population that is still there serving time.

**Mr Rabeau:** Certainly, we have about 200 sentenced inmates at Maplehurst, and they would be treated the same as the sentenced inmates from Penetang or Lindsay and moved back to their home communities, home facilities.

**Mr Chudleigh:** They are taken there now? They're not just put on a GO train to send back to Toronto?

**Mr Rabeau:** That's right.

**Mr Chudleigh:** They're taken—

**Mr Rabeau:** Because they're from all across the province, the inmates at—

**Mr Chudleigh:** It's only the remand inmates that are—

**Mr Rabeau:** It's the remands that are from the GTA area.

**Mr Chudleigh:** And they're not dropped off at the place they were arrested; they're just—

**Mr Rabeau:** They're arrested in the area, basically.

**Mr Chudleigh:** Oh, the area of GTA?

**Mr Rabeau:** We're very sensitive to this issue. We certainly have plans as we get to full operation at Maplehurst to be perhaps bringing our remanded inmates who are discharged into the top of the subway at Yorkdale rather than at the GO station in Milton.

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**Mr Chudleigh:** I'm sure the merchants in Yorkdale will be not too happy about that and the merchants in Milton will be very pleased about that.

**Mr Rabeau:** We're saying the subway station, not at the shopping centre. Obviously we recognize the huge issue in small communities of having a number of folks dropped off.

**Mr Chudleigh:** Thank you.

**Mr John Hastings (Etobicoke North):** Welcome, folks, to the committee. There are a couple of items of focus I would like to stress.

First off, unlike our friends across the way who seem to be pretty well fascinated and obsessed with the public sector status quo, we have made some real efforts to get a mix of private and public accountability into the system, which you mentioned, Deputy, wasn't there prior to 1993, probably, except for some outsourcing of contracts for services.

Could you give us a broad and specific indication of comparators that you're developing as to outcomes in both the public and private areas? Let's take the young



offenders as an example. How do we compare in terms of outcomes of success with young offenders under the system up north and what we're using in, say, Mimico or other traditional types of institutions?

**Mr Rabeau:** I'll ask Deborah to answer specifically in terms of the question on young offenders, and maybe we could pick up on what our intention is with the adult system.

**Mr Hastings:** OK.

**Ms Newman:** Thank you, Deputy. The only private operation that we have in secure custody in the young offender system, as mentioned earlier, is Project Turnaround. Project Turnaround is a 32-bed strict discipline facility for 16- and 17-year-old young offenders.

We began operating it in July 1997, and we have done a number of evaluations of Project Turnaround and compared the results of that particular program against our public sector institutions, and we've certainly been measuring outcomes in terms of recidivism. We've also been measuring a number of other factors in terms of provision of effective correctional programs. We also compare per diem costs in terms of the efficiency of Project Turnaround against our publicly operated youth centres.

In terms of the results of those comparators and the outcomes, Project Turnaround as a public-private operation has demonstrated that it is in fact a best-practice young offender program, and the evaluations have been very favourable on all of those fronts. In terms of the evaluations, we've actually conducted eight comprehensive evaluations of Project Turnaround, and probably of principal interest is the outcome evaluation that was conducted by T<sup>3</sup> Associates, an external evaluator that compared the recidivism figures for Project Turnaround participants against some public sector control groups. It showed 33% recidivism for the Project Turnaround participants and a 50% recidivism rate for the comparable offenders in publicly operated institutions.

**Mr Hastings:** What are those in actual numbers?

**Ms Newman:** I don't actually have the aggregate numbers here from the study.

**Mr Hastings:** Could you get them for us?

**Ms Newman:** Certainly. Yes, absolutely.

**Mr Hastings:** The other area that I'm most interested in—you mentioned, Deputy, that there are certain monies that we could have utilized had we gotten them from Ottawa. How much is that money, and how would it be applied and to what programs? And since we don't have it, why don't we have it? How are we having to use Ontario taxpayer dollars—it's all the same persons—that are diverted out of what we need them to be going into and into, say, young offenders or electronic monitoring or however you divvy up those dollars?

**Mr Rabeau:** I'll ask Deborah to answer that. She has been intimately involved in the negotiations with the federal government on this cost sharing agreement.

**Ms Newman:** As the deputy mentioned earlier, we have negotiated with Justice Canada in terms of the cost sharing agreement respecting federal contributions to our

programs. While they are providing \$347 million, that represents only 25% of the costs of operating the young offender system in Ontario.

**Mr Hastings:** That's \$347 million for the whole country?

**Ms Newman:** No, for Ontario; for both young offenders under the supervision of our sister ministry, MCFCS—

**Mr Hastings:** Ministry of Community, Family and Children's Services, or Comsoc sometimes.

**Ms Newman:** —formerly known as Comsoc—the 12- to 15-year-old young offenders under Comsoc supervision and the 16- and 17-year-olds. So that cumulative expenditure for young offender programs in the two ministries—what we receive from the federal government only represents 25% of our actual costs for operating the system.

**Mr Hastings:** Is the same standard applied to the other provinces across Canada?

**Ms Newman:** Yes. The same standard is applied to the other provinces.

**Mr Hastings:** In money terms too?

**Ms Newman:** They're eligible to receive the same amounts of money. It may comprise a higher percentage of their costs, because we're really the biggest province in Canada, in terms of our numbers. We have 22,000 young offenders in Ontario. For us it's 25% of our costs. For other provinces it may comprise a higher percentage simply because they are smaller. But they're eligible to receive the same kinds of federal contributions toward cost sharing that we are.

**Mr Hastings:** What is that per young offender? Have you divided it up? What do you see in those numbers?

**Ms Newman:** If we want to look at our young offender per diem costs and then say 25% of that, our per diems range from a low of \$239 a day for Project Turnaround to a high of \$394 a day for Bluewater Youth Centre in Goderich. We have a range in terms of our per diems, and the other youth centres fall in between. So 25% of that cost per day is covered by the federal government.

**Mr Hastings:** How are your so-called negotiations with Ottawa going in this area?

**Ms Newman:** We're continuing to impress upon the federal government that Ontario has very significant concerns about the gap in terms of the funding; and certainly the further concerns about downloading on the province with respect to the new Youth Criminal Justice Act, where there are a number of new sentences and new provisions that are not being funded by the federal government.

**Mr Hastings:** It's par for the course, you understand.

I'd like to go to your young offender operations for the last couple of fiscal years. Could you give us a breakout of what monies are going to education in the young offender component of the programs, where they are confined to the institution for a year or whatever their sentence is.

**Ms Newman:** We offer education programs to young offenders in all of our youth centres. They're offered

through school boards; they're not provided by correctional services, but in partnership with school boards under what are called section 19 agreements. So in terms of the academic programs, they're actually funded by the Ministry of Education.

**Mr Hastings:** Let me ask you, then, if you visit Mimico—I was there on two occasions, one for a parole hearing for adults and another time to visit the young offenders section. I looked in the library, and to my somewhat dismayed surprise, I don't think we saw much in the way of books there. That was about four years ago and that was at Mimico. I know you've got a top crew there, but I'm wondering, if you visited there now, what changes there would be in terms of book selection in the library. Furthermore, do you encourage, through your partnerships, the contribution of books from any individual, organization or service club?

I ask that because, as a member of a rotary club in Toronto, after a fall fair we had a number of books left over from one of the areas where we were trying to raise some funds for the Toronto city fire department. I suggested that we take those books to Mimico. They weren't recent publications, but when I looked through them—about five to seven dozen—most of them were no older than published about 1995. So it wasn't like taking books that were 15 or 20 years old that you'd find at a bazaar and just giving them to young people. While the history and that would be useful, these were a fairly wide selection of novels, mechanic books and that sort of thing, so we took them there.

But I found, on a personal basis, the staff weren't the most receptive. They certainly took the material and they were glad to have it, but I didn't feel a sense of, "Let's do this again. We'd be happy to take more materials," wherever they came from, whether they came from that kind of circumstance or from others. I'm wondering to what extent that may have changed.

**Ms Newman:** I think you're referring to the Toronto Youth Assessment Centre, which is on the grounds together with Mimico.

**Mr Hastings:** Yes.

**Ms Newman:** I regret that you got that reception, because we are always delighted to receive donations of books from service clubs. We have in fact those arrangements across the province that supplement our library collections, which are generally provided through the school boards.

The Toronto Youth Assessment Centre does have a library. It has a very active school program, and a donation of books from a service club would be very well received by the ministry. So if you received a lacklustre reception, I'm surprised to hear that; I regret that. I would encourage the rotary club, if you're so inclined, to come back again.

**The Vice-Chair:** I must intervene. I've checked around and it would appear as though there is further questioning this afternoon. I'm going to suggest that we now break for lunch and that we return at 1 o'clock to continue this afternoon. We're recessed until 1 o'clock.

*The committee recessed from 1203 to 1300.*

**The Vice-Chair:** We will begin this afternoon's session, then, to consider the 2002 Annual Report of the Provincial Auditor, specifically section 4.04, "Institutional Services and Young Offender Operations." We'll begin with the Liberal caucus.

**Mr Kormos:** Sorry, Chair. If I may, I will not be calling quorum, but I will assist the government whip's office in identifying the government members who fail to be here.

**The Vice-Chair:** Oh, is that right? Mr Levac, please.

**Mr Levac:** Thank you, Mr Chairman. I appreciate this opportunity. I do have several issues still to touch on. In some cases, there will be very short responses to some of the specifics I have, and then after that maybe we can discuss some philosophical differences or continue on some themes I've introduced over the last couple of years.

The first one is a really simple one, again according to my riding. Brantford Jail is on your sheet "Decommissioning Activities," announcement date July 1997, and its status is still operational. Could you give us a date? I know the constituents and COs in my riding have continually asked about this. I understand it has been put off again. Do you have a date for that, by any chance?

**Mr Rabeau:** No, I don't, Mr Levac. In part it's because of the remand pressures we're facing now. They are certainly putting pressure on us to keep a number of places open that had been announced to close. We're obviously re-evaluating our plan that was announced back in 1996. Brantford specifically I think would close once the young offenders were out of the Hamilton jail, which is quite dependent upon the building of our Toronto site. We think that will be the driver. Two to three years would be a rough estimate, but we haven't come to any final—

**Mr Levac:** Not to assume that you haven't done so, but if it hasn't been done, I would encourage regular updates for the employees, their families and the municipality. I'd appreciate that.

Now to get to some really interesting things. This is something I brought up to the Provincial Auditor, and I do not know if it has been investigated, because of the rotation of how he does his job. So I don't know if this was addressed or not. But a couple of years ago, when cook-chill was discussed and debated, I came across some information that I've yet to receive a definitive answer on. In the cook-chill operation, not only the Maplehurst situation itself but those who are at the receiving end of the cook-chill operations were in need of new purchases: the thermal ovens that receive that, reheat and redistribute it. My understanding is that in some of the institutions, and I haven't been able to discover all of them, the backup generators that are necessary during power outages would not have enough power to run the facility properly and the thermal ovens at the same time. Has my request from about two years ago ever been investigated?

**Mr Low:** Perhaps I can respond in part to that. In the introduction of the cook-chill food production centre and



the distribution to the receiving kitchens, we've planned it so that there are the initial receiving institutions and then there are subsequent receiving institutions as we increase the volume. The three initial receiving institutions are the Central North Correctional Centre, the Central East Correctional Centre and the Maplehurst Correctional Complex. Those represent, in essence, close to 50% of the overall capacity of our system when they are at full capacity, and those are our initial receiving. So we will not be looking at moving to other institutions until then, and in some instances that will require a retrofit for the rethermalization process in those other receiving kitchens. In those three, yes, we have them, and yes, they have the capacity to operate a retherm kitchen. So the concern you have with the others is being addressed as we look at the need to retrofit from a conventional kitchen to retherm over time as that begins to roll out.

**Mr Levac:** Thank you. That's as close to an answer as I've received in two years. The concern that I did raise indicated that when the contract was given, that was not even investigated. So the three facilities we presently have, because of their newness—it was indicated that the generators did have the capacity to take care of that. Now, I'm not talking about the power that's necessary for the ovens themselves; I'm talking about if there's a power outage, the backup generators to provide power for the institution would not be able to handle the thermal ovens and the rest of the institution at the same time. So I'm bringing it up again as another "Please investigate this," to ensure that that's going to happen and when those power outages happen—and I think we're probably destined to have some of those power outages as early as this summer—I would suggest that that be included in the evaluation of the new thermal ovens.

Quickly—I couldn't let this one go in terms of the comments made by Mr Hastings regarding the propensity for them to believe in the private sector. There are two issues I want to bring up with regard to that. In terms of the research that's been available, about 85% of all the research I've been able to read has indicated that there is not a great love of privatizing our jails out there around the world, and that in fact an awful lot of the jurisdictions are removing themselves from that experiment. I want to make sure I'm on the record as indicating clearly that it may be very well to say that I'm against privatization, but it's based on what evidence I've read so far, along with the concerns I have with some of the shortfalls that seem to be taking place.

I'll bring up the cost of the provision of health care, which has been referred to already. I also would refer to the T<sup>3</sup> project. I had two professors of criminology investigate this report, and both of them indicated to me—when I gave them the Hansard statements of members of the Conservative government that indicated it was a resounding success, both of these professors made it quite clear that it was a little bit exaggerated to claim full success on an interim report, that after a three-year instigation of this particular project, it was quite premature to indicate overall success.

Do you think these professors are overstating their position by saying that it's a little bit premature to claim total success in the boot camp?

**Mr Rabeau:** Perhaps we can deal with this two ways. The first part of your question dealt with the privatization, and then research. I'm going to ask Brian to respond to that area, and then when we talk about the research for Turnaround, Deborah can address that issue.

**Mr Low:** I think you're absolutely right in terms of the amount of research that has gone into private sector involvement in corrections, and your observation of the fact that there are successes and there are absolute failures in private sector involvement in correctional services is correct as well.

When we researched this and went through, I'm sure, much of the same data that you've been able to collect, we were able to look at those jurisdictions where the success for private sector involvement was based on a very clear and understandable governance model of roles and responsibilities and a very clear contractual arrangement with regard to either standards or outcomes.

Conversely, where it was not successful, there was often a view that the correctional services were basically given off to a private sector entity where there were no expectations, there were no standards, and it was almost an abdication of the responsibility of the government of the day.

What we have done is to establish what we believe is a very clear and distinct governance model in terms of roles and responsibilities. We've established outcomes and bound the accountability within the contractual model and have set up, through that, a monitoring process to ensure that the exact same expectations we have of our public system are in fact embodied in the expectations of a private sector operator. So what we are responsible for as a ministry is correctional services in Ontario, regardless of who is operating. We will hold both the public and the private sector operators accountable to the same standards and to the same outcomes, and we'll report on that as well.

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**Mr Levac:** Before we go to the second part of the answer, can I come back to this one first, then? That being said, I'll roll in my health care concerns: I have been receiving some reports that there is a different way in which some of the medications have been distributed, and that the health care that has been provided at Penetanguishene is questionable. In some of those aspects, I would assume that those allegations have been investigated; for instance, the distribution of medications. Some inmates have indicated that they receive a week's worth of medication to take into their cell with them and give to themselves. What would constitute, as far as the RFP and the RFQ, a breach of the contract, if indeed someone found that in the private provider, standards were not being met, in terms of cancellation of the contract, as an extreme, all the way to some type of disciplinary action in terms of monetary removal of profit etc?

**Mr Low:** With any area of service delivery there is an expectation, through the standards of operation and schedules where we have identified system-wide protocols, that there will be compliance. If there's not compliance, and I'll indicate that this is whether it is privately operated or publicly operated, then we will, when we observe it, discuss it with the operator and look at a plan that will correct that. If it is not there, in the private service sector there is the area of performance deficiencies, and there are identified areas in terms of performance that eventually will have a reduction in the dollars delivered for service in that those services would not be delivered. So we pay for performance.

There is an expectation that they will meet the service and that they will put into place the programs to ensure that our standards, our expectations, in correctional services are met. There is monitoring that could lead to performance deficiency points. In fact, that also could result in, if it's repeated, up to and including the termination of the contract.

**Mr Levac:** I want to pass for a moment on the answer for my young offenders, but I will come back to it because it's generating different questions.

Are you still in negotiations with Guelph and the federal government to possibly use that as a federal institution?

**Mr Rabeau:** No, we're not. We're certainly talking to Immigration Canada about the provision of services for immigration detainees, but Guelph is not something they're interested in operating at the moment.

**Mr Levac:** "They" meaning the federal government?

**Mr Rabeau:** "They" meaning the federal government.

**Mr Levac:** OK, so negotiations were broken off by the federal government or the provincial government?

**Mr Rabeau:** We're still talking to them about the provision—

**Mr Levac:** But not Guelph.

**Mr Rabeau:** But not about Guelph.

**Mr Levac:** Did the government continue with Guelph until the government of Canada decided that it wasn't going to use Guelph?

**Mr Rabeau:** Our position with Immigration Canada all along has been—I have a clear preference for them to be delivering services themselves for the immigration holds. We've had some long-term discussions, over several years, in that direction. At this stage, they don't appear to be interested in that. In terms of our operating, we will be continuing to provide service where we have capacity in our system.

**Mr Levac:** Are we doing OK?

**The Vice-Chair:** You're doing just fine. You have a little less than three minutes.

**Mr Levac:** If you don't take up the three minutes, I'll let you answer.

**Ms Newman:** There's a challenge.

You were asking about the evaluation of Project Turnaround and specifically around the T<sup>3</sup> study—

**Mr Levac:** Correct, and the professors who indicated that it was premature and also a little bit exaggerated to declare it a total success.

**Ms Newman:** Yes, I'm aware of the concerns that were raised by the research and academic community. I think the government had committed to evaluate the results of Project Turnaround, and the T<sup>3</sup> study was initiated for that purpose. We've continued to evaluate the results at Project Turnaround. Certainly, I think the academic community's concerns were around whether these were statistically significant results at that time. I'm just going to look at my notes, because it's a little bit technical, in terms of statistical significance. Essentially, I think the concern of the academics was that, in terms of the results, it didn't reach a confidence level of 0.05, which is statistically significant. The study's conclusion, the difference, was 0.07, meaning that the results could have been attributable to chance in seven out of 100 cases, as opposed to what is deemed academically to be statistically significant at five out of 100. So I think that was the essence of the concern.

**Mr Levac:** Right. From that was the leapfrog to some people proclaiming it an absolute total success, and therefore, "We're going to continue with this and everything's hunky-dory." I wasn't concerned about whether or not the T<sup>3</sup> company was giving us falsified information, nor was I concerned about whether or not the academics were taking us down an academic road. I was concerned about the proclamation that it's absolutely rousing and rosy and everything's fine, by people taking that information and misusing it in a way that basically proclaimed it a success. I would encourage and thank you for indicating to us that the study will continue and that there will be more available information and data to give us a better picture of that.

Having said that, is there a relationship between T<sup>3</sup> and MTC?

**Ms Newman:** I'm not aware of that relationship. I'd just like to add a comment, because I don't want to leave a misperception, I think, in terms of the T<sup>3</sup> report. We've done eight separate evaluations of Project Turnaround. T<sup>3</sup> was only one of those eight evaluations. They all had very favourable results, which led to the conclusion that it was a very promising best-practice young offender program and, in addition, that it's an efficient program because its per diems are 32.8% lower than the publicly operated youth centres. So if I have another opportunity, I'll probably talk about some of the other evaluations.

**Mr Levac:** That's fair.

**Mr Levac:** There are also longitudinal studies that indicate this style is not purposeful.

**The Vice-Chair:** Mr Kormos.

**Mr Kormos:** The OPSEU strike—the most recent one—carried with it significant costs for overtime in the Ministry of Corrections for staffing of correctional institutions. Do you have a gross number on that, in terms of cost?

**Mr Rabeau:** No, I don't. I certainly don't have it here.

**Mr Kormos:** Chair, I wonder if we could get that, please?

**The Vice-Chair:** It has been noted.



**Mr Kormos:** Similarly, I'm told there were debriefing sessions for management who worked during the strike. Some people have indicated that these were two-day sessions held at a number of posh resorts throughout the province. Do you have a cost for those debriefing sessions that occurred, presumably when the strike was resolved, when the negotiations were completed?

**Mr Rabeau:** I'll ask Deborah to respond to this.

**Ms Newman:** In terms of the post-strike debriefing sessions, they were held for managers because they had essentially worked 24/7 for eight weeks, separated from their families and locked up in institutions 24 hours a day, seven days a week, under extremely stressful circumstances, and in most cases running the institutions without the benefit of any staff whatsoever. Among our managers, we were experiencing symptoms of post-traumatic stress disorder, clinically. It was an extremely stressful time, as you can appreciate, so we felt it would be responsible for us to have debriefing sessions for them. The debriefing sessions were one-day sessions, and they were not held at any posh resorts.

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**Mr Kormos:** How many locations were used for the debriefing sessions?

**Ms Newman:** I don't have that number with me. There were a number of locations across the province, so that all of our managers across the vast geography we have could take advantage of the opportunity to attend those. So it was in multiple locations.

**Mr Kormos:** Was there an agenda established for these debriefing sessions?

**Ms Newman:** Yes, they were clinically led, actually.

**Mr Kormos:** And that agenda was used at all the debriefing sessions? There was uniformity?

**Ms Newman:** That's right.

**Mr Kormos:** Do we have that agenda?

**Ms Newman:** No, I don't. Essentially, the intent was to, through the benefit of some clinical expertise, work through the experience that managers had had for the last eight weeks under particularly traumatic situations.

**Mr Kormos:** I wonder, Chair, if we can get a copy of the agenda that was utilized for the debriefing. Was there an allotment, a costing, of the debriefing sessions?

**Ms Newman:** I don't have that figure, in terms of what was spent on the debriefing sessions.

**Mr Kormos:** I wonder if we could get that too, Chair.

**The Vice-Chair:** We will request that.

**Mr Kormos:** Thank you kindly. And that was in addition to the overtime costs of the ministry of corrections?

**The Vice-Chair:** Yes.

**Mr Kormos:** You're all civil servants of some stature and some longevity. From time to time in the course of performing your duties, you travel about. From time to time you may have to stay overnight in those places you travel to and you rent hotel rooms and you have meals and other expenses. Are you required to submit receipts for expenditures during the course of travel in the performance of your responsibilities?

**Mr Rabeau:** Yes, we are.

**Mr Kormos:** Is there any threshold under which you're not required to submit a receipt, as civil servants?

**Mr Rabeau:** We submit receipts for everything. The only exception would be a meal allowance.

**Mr Kormos:** The per diem meal allowance.

**Mr Rabeau:** The per diem meal allowance is somewhere around \$34 a day: six bucks for breakfast, six for lunch and—

**Mr Kormos:** Oh, I see. Is it a gross meal allowance of \$34 a day?

**Mr Rabeau:** Yes.

**Mr Kormos:** It isn't broken down. You can spend it all on one meal or you can spread it out over three or four.

**Mr Rabeau:** Depending on if you're travelling for the day or not.

**Mr Kormos:** So if you're travelling for a full day, you get a max of \$34.

**Mr Rabeau:** Yes, and if you're not, you just get your allotment for the meal that you're using. The max for breakfast is six bucks and I think it's six bucks for lunch too, or maybe it's eight. I can't remember.

**Mr Kormos:** So other than the meal allowance, which one doesn't have to specifically account for by way of receipts, are there any other expenditures that you don't have to justify by way of receipts?

**Mr Rabeau:** I can't think of any others.

**Mr Kormos:** Even a \$1 or \$2 expenditure?

**Mr Rabeau:** A cab or something like that. You need a receipt for cab fare.

**Mr Kormos:** So for even the most modest amounts?

**Mr Rabeau:** Yes.

**Mr Kormos:** So if you were to travel to, let's say, South Africa to an international conference on corrections and your global cost was \$15,000 for airfare, hotel rooms and other expenses, would there be any way that you could justify that without submitting receipts?

**Mr Rabeau:** I don't think so, other than if somebody was paying for it other than the government, which is a possibility.

**Mr Kormos:** Sure, if you were being hosted by somebody.

**Mr Rabeau:** Yes, when that happens.

**Mr Kormos:** Would you have to disclose that if that were the case?

**Mr Rabeau:** There is a formality in terms of out-of-province travel or out-of-country travel that says an employee must identify the reason and get approval, depending upon where it is. It's either at the deputy level or the ministerial level.

**Mr Kormos:** And similarly with you, you're a deputy minister, a very senior position. If you were to travel to South Africa for an international conference on corrections and were to bring along some staff people, some subordinates, for support during that, would you have to itemize the costs attributed to them as compared to global cost?

**Mr Rabeau:** No, they would do their own personal expenses.

**Mr Kormos:** Yes, but if you were responsible, for instance, for signing off on the hotel rooms, would you have to identify which hotel rooms were theirs and which were yours?

**Mr Rabeau:** Their hotel room would be part of their expense claim and if I was approving that expense claim, yes, I would have to sign off on it.

**Mr Kormos:** So you approve your subordinates' expense claims?

**Mr Rabeau:** Yes.

**Mr McDonald:** On a point of order, Mr Chair: I think we got off topic a little bit here. We're into individual expenses now. I'm just wondering, with your consideration, if we could go back on topic.

**The Vice-Chair:** I always encourage the members to discuss the issues that are at hand, but at committee it isn't quite like a debate in the Legislature, and we are looking at the auditor's report, which covers a wide range, so you give a fair amount of latitude. Having said that—

**Mr Kormos:** I accept Mr McDonald's admonishment there. I feel compelled, after his making that point, to not return to the matter. I just find it intriguing. I was just thinking speculatively about whether or not a deputy minister could go to South Africa, let's say, and spend \$15,000 on hotels, meals and travel expenses and not have to submit receipts and whether or not if a deputy minister took along some subordinates, perhaps one or two staffers, he could similarly throw their costs into that junket—sorry, into that travel—and not have to justify it with receipts. But I think it's clear, I understand now, that these folks know that if they're going to blow \$15,000—sorry, spend \$15,000—of taxpayers' money, they can't just come back and sign off on it; they have to justify it. They know that. They have to submit receipts. I think that's a very good standard. It should be applicable to all of us. Were any of us to travel to South Africa with one or two subordinate staff people and ring up a tab of \$15,000, I would think to not submit receipts would raise eyebrows and cause concern among all of us about how that money was actually spent, because it's all about transparency.

The Niagara Detention Centre, down in Niagara region, of course is down in my bailiwick. What's its status right now? You talk about decommissioning. You had a list of institutions decommissioned and those to be decommissioned. Where's the Niagara Detention Centre on that list?

**Mr Rabeau:** It's open.

**Mr Kormos:** I know it's open; you bet your boots it is.

**Mr Rabeau:** The response would be that at this stage it's open and we have no firm date to close it. Again, having to look at our capacity concerns, at this stage we need the building, we need the beds and we need it to be where it is.

**Mr Kormos:** How do you identify and track institutions in terms of their population and their capacity? Do you identify institutions that are over capacity in terms of population?

**Mr Rabeau:** We keep a daily count of where we are with all of our institutions, yes.

**Mr Kormos:** What's your margin of error in terms of overpopulation?

**Mr Rabeau:** We don't have margins of error. As was mentioned earlier, we take all comers; we don't pull out the rug. We really have to receive anybody who is brought to our door with valid papers, warrants, to let them in. Obviously, we do try to balance our load and occupancy in places that are getting extreme by moving long-term remanded inmates to other facilities where we might have some capacity. It is a very volatile situation, given that folks come from courts at all hours of the day and police can be bringing people 24 hours a day.

**Mr Kormos:** You have 4,400 per diem on remand, and you say that's a significant shift from a historical situation. Have you identified the cause of this? Where is it coming from?

**Mr Rabeau:** It's a very complex system. We're just part of the justice system. It really is a reflection of police, police procedures, charging procedures, whether or not folks are being released on their own recognition. It has to do with the courts and how the courts operate, whether or not there's access to bail hearings. It has to do with the availability of counsel.

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**Mr Kormos:** Justices of the peace?

**Mr Rabeau:** It has to do with availability of courtrooms, justices of the peace, a number of factors that impact on this. So there's no one real answer. It's the system itself.

**Mr Kormos:** One can, I suppose, speculate that there has been a greater tendency to use more caution in releasing people who have been charged, but then one could also speculate that, as you've indicated, there's a problem in terms of availability of courts and justices of the peace. Is there any way you can access information that would give you a handle on whether or not that has been the case?

**Mr Rabeau:** We're involved as a ministry with the Attorney General and a number of folks who are part of the system, whether it's police forces, judges or JPs. Looking at this issue in a systemic way, we've taken a number of steps, video remand being one of them, in trying to reduce the demand on the courtrooms that allows better access. So it depends on the community and the particular court as to whether or not there's availability of folks. But there are clearly some hard looks at all of those.

**Mr Kormos:** The chiefs of police of Ontario prepared a study that they delivered to the Ministry of the Attorney General regarding the work standards and work ethics of justices of the peace. Has your ministry had a copy of that report?

**Mr Rabeau:** I don't recall receiving it myself, but maybe somebody else has. I'm aware of the issue, mind you, but I haven't received—

**Mr Kormos:** What's your familiarity with the issue?



**Mr Rabeau:** That some people are concerned about hours of work of people in the system.

**Mr Kormos:** Isn't that of concern to you in view of what you say is a significant increase in terms of inmates who are there on remand?

**Mr Rabeau:** Obviously the operation of the system is of concern to us, because we're at the end of it. As I said, we accept all comers.

**Mr Kormos:** I understand, but you're saying there's a significant increase in the number of inmates you have who are on remand. You're indicating, I infer, that there are new pressures. You talked about these as the challenges that did not exist in 1993. I'm asking how the ministry has responded to it. If it's on the remand side, then what is the ministry doing to—you say you take all comers. Fair enough. But if it's a new scenario, what is the ministry doing to try to understand the source of that new population?

**Mr Rabeau:** I think I tried to indicate to you that we're certainly engaged with the AG and others trying to look at the precipitating factors that cause the problem, but the issue is particularly out of our control. In terms of the response to deal with that, it's not something that we have control over.

**Mr Kormos:** Sure, but you say you're working with the Ministry of the Attorney General trying to determine the factors that give rise to this.

**Mr Rabeau:** Yes.

**Mr Kormos:** Where are you in terms of that work with the Ministry of the Attorney General?

**Mr Rabeau:** I think we've identified a number of them, and they're in fact doing their own work to deal with the problem. I guess you also have to recognize that there are components of that system that are independent of government. The judiciary have their own independence, and that includes JPs. So it is a complex issue.

**Mr Kormos:** I suppose what's of concern to me is that if people are going to be released in any event, that if they're occupying cells one, two or three days on remand at the cost of—how much per day?

**Mr Rabeau:** Our average per diem is around \$138.

**Mr Kormos:** But it seems to me that if they're going to be released at some point in any event—

**The Vice-Chair:** Last question in this round.

**Mr Kormos:** —the ministry should be concerned about that new pressure and the cost attached to it.

**Mr Rabeau:** We're very concerned, yes.

**Mr Kormos:** And prepared to do something about it?

**Mr Rabeau:** I'm not sure what you mean by that.

**The Vice-Chair:** Thank you. Perhaps you can think about that. Are there questions from the government?

**Mr Hastings:** Briefly, Deputy, unlike perhaps the member for Niagara Centre, who doesn't seem to believe very much that this organization, this ministry, has people who probably require and want and need educational upgrading and training and what have you, which could take many forms, I would like to know what kinds of staff training are going on in the ministry.

In terms of monies, I think it's down a little bit, if I look at 2003—your breakout as to what goes to management and what goes to unionized employees in terms of training them for opportunities in the old correctional services ministry. Is leadership part of that? Is there any fostering of mentoring? It's a bit of a bizarre idea, I guess, in a supervised discipline structure. But it's those sorts of things I'm interested in.

**Mr Commeford:** There are a number of initiatives that we undertake around the area of staff training at different levels. We have an extensive course for individuals who want to come into the service and that they begin with, which is called our Costart program and is the basic training for correctional officers. In that particular training program, individuals who have gone through a selection process attend a residential training program at our facility, and at that point they learn how to be correctional officers in various aspects and phases, both in the adult and young offender systems.

Subsequent to that, we also offer other programs. There is also a basic training course now underway for probation officers at an intake level.

When you get to the managerial area, we have a program known as Leadership 2000, which has a number of modules and prepares people in various areas around creating win-win situations and provides them with the skills and abilities to take back to the job. The idea was to set up a set of circumstances that our managers would operate from. It's through that level that people can progress through the system. There are also a number of courses as they go along.

Along with that, we also provide the opportunity for correctional officers to become what are known as associate trainers. In that particular case, we have COs who have volunteered to become associate trainers either in use of force or in various other aspects. So it allows people to hone their skills and make themselves better prepared for promotion, if they wish to go that way, or better prepared to get into the staff training area at a more regular level.

**Mr Hastings:** On a per staff training dollar, how would it break down, management versus unionized, if you did it that way? Or is that a fair way of—

**Mr Commeford:** It's difficult to say in that particular case. For example, the Costart training program is funded by the people who have applied to come and attend the program. I don't have the exact budget for staff training, but it is encapsulated in our whole program, including the trainers and the residential aspect.

**Mr Hastings:** Do you see this training program being a supplement or an assist to the absenteeism? I see you've got the stats on trying to get it lower and all that. Isn't there a connect between the two?

**Mr Commeford:** I think there is a connect between the two, and I would go back to the Leadership 2000 aspect, because there are modules included in that which deal with situations that an individual will find in the workplace. When they apply these principles in these modules, it will help to deal with a situation of an in-

dividual employee, and if they are able to deal with them, hopefully that will translate into better attendance based on job satisfaction or dealing with whatever issues lead to the performance issues that are being dealt with by the manager.

**Mr Hastings:** The other issue I wanted to concentrate on briefly is the supply of education to young offenders. Deborah, can you tell us to what extent—is there a written agreement between the two school boards in Toronto regarding the provision of education under section 19 for young offenders while they are incarcerated, and are you satisfied with how they are performing in terms of helping these young offenders? They are there anyway, so they might as well be getting some education, obviously. How effective is it, where are its deficiencies and what kinds of improvements do you foresee?

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**Ms Newman:** As I mentioned earlier, we have section 19 agreements in every one of our youth centres with local school boards. We do have signed agreements with the school boards to provide the education programs. In a couple of situations in the province where we haven't been able to effect section 19 agreements, we have other agreements to offer education programs through the Provincial Schools Authority. All of these education programs for young offenders are credit-granting, so young people are in fact being educated, pursuing their education and being granted credits for courses they complete while in custody. So it is, we think, certainly for young people, a very productive use of time, and we're quite happy with the calibre of education programs that are being offered through the school boards.

**Mr Hastings:** Is there a written agreement, or is it an informal arrangement?

**Ms Newman:** There are written agreements.

**Mr Hastings:** Is there any indication in there as to the qualification of teachers providing the education inside the institutions?

**Ms Newman:** Yes.

**Mr Hastings:** Do they have to be credentialed, or can they be brought in on a letter of reference, as it used to be called?

**Ms Newman:** They have to be qualified teachers.

**Mr Hastings:** For their subject area?

**Ms Newman:** That's right.

**Mr Hastings:** OK. Do you have statistics regarding graduation, or is that premature—that most of them go through and they're in the intermediate phase of a given year and they don't graduate inside; they graduate outside? How does that work?

**Ms Newman:** We make arrangements with the school boards that young offenders can continue their program of study when they come into custody through contact with their previous school and getting transcripts from their previous school. So they continue the course of study and then there are attempts to reintegrate them into the school system on release. Some do actually complete courses and graduate in custody, but generally they are not with us long enough for that to happen. If they had

been working on a course before they come into custody, then they may complete it in custody, but we only have an average length of secure custody of 111 days.

**Mr Hastings:** Do we have many aboriginals in the system in this situation, and are the agreements through the school boards in the north or through First Nation reserves?

**Ms Newman:** We have some areas with higher concentrations of aboriginal populations in the province than others. Certainly Kenora and Thunder Bay, for example, have a higher aboriginal population. I'm not certain with whom they have contracted or which school boards specifically, off the top of my head, they have contracted with in those locations.

**Mr Hastings:** Might I suggest, although it's not part of your mandate, I guess, that the ministry could focus somewhat on the successes—and there are some, I'm sure—of young offenders coming out with improved credits? Those could be indices of your program's success. I see in the measuring the zero accidents, zero escapes, which is obviously your central, core business, but I've always believed that in those institutions we should be trying to help those young people as much as possible while they are there, because it could be a break for them; they don't come back, some of them, hopefully.

**The Vice-Chair:** Thank you, Mr Hastings. It's my understanding—but I'll give you an opportunity—that we have now concluded our questions and comments.

**Mr Rabeau:** Just a couple of quick updates, if people would like them.

We handed around a framework that Mr Kormos had asked for.

By the way, in terms of our post-strike recovery meetings, we had 46 debriefing sessions across the province and the cost was approximately between \$150,000 and \$200,000, in that neighbourhood.

In response to your other question around fine defaults, in 2001-02 we had a total of 87 individuals.

**Mr Kormos:** So it's negligible.

**Mr Rabeau:** In fact, it's dropped even more than that. People are paying their fines because they want to get their driver's licences.

**The Vice-Chair:** Thank you, Deputy Minister and colleagues, for attending the committee hearings today. We will see you, I expect, again on Monday. I remind the committee members that we will meet on Monday, February 17, at 10:30 for a closed session.

**Mr Kormos:** Why so late, Chair?

**The Vice-Chair:** There's some consideration for out-of-towners, I guess.

**Mr Kormos:** Sunday is a good travel day.

**The Vice-Chair:** Well, that's when I travel. Anyway, we are meeting at 10:30 for a closed session, 11 o'clock for open session, to consider section 3.08, the community services program of the Ministry of Public Safety and Security.

With that, I will call this meeting adjourned.

*The committee adjourned at 1346.*









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# Official Report of Debates (Hansard)

Monday 17 February 2003

# Journal des débats (Hansard)

Lundi 17 février 2003

## Standing committee on public accounts

2002 Annual Report,  
Provincial Auditor:  
Ministry of Public Safety  
and Security

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## ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON  
PUBLIC ACCOUNTSCOMITÉ PERMANENT DES  
COMPTES PUBLICS

Monday 17 February 2003

Lundi 17 février 2003

*The committee met at 1124 in room 151, following a closed session.*

2002 ANNUAL REPORT,  
PROVINCIAL AUDITOR  
MINISTRY OF PUBLIC SAFETY  
AND SECURITY

Consideration of section 3.08, community services program.

**The Vice-Chair (Mr Bruce Crozier):** The standing committee on public accounts will come to order. We are here this morning to review the 2002 annual report of the Provincial Auditor as it relates to section 3.08, community services program, Ministry of Public Safety and Security.

Deputy Minister, as you are well aware, you have up to 20 minutes. We ask that each person who comes to the microphone identify themselves by name and responsibility, and I will further ask that all cellphones be in silent mode, if you don't mind. Deputy Minister, welcome, and the floor is yours.

**Mr John Rabeau:** Thank you very much. My name is John Rabeau and I'm the Deputy Minister of Public Safety and Security, correctional services. I'm joined by Deborah Newman, Michael Simpson and Brian Low. Deborah is the assistant deputy minister of young offender services, Michael is the acting assistant deputy minister of community corrections, and Brian is the executive lead of alternative service delivery.

Today our discussions will be about the community services part of correctional services. I think it's important to first provide some background about how community corrections operates. The vast majority of offenders under our supervision within this province are under community supervision. In 2001-02, about 65,000 adult and young offenders were serving their sentences in the community at any given time, whether through conditional sentences, probation and/or parole. This represents approximately 90% of Ontario's total correctional population. The remaining 10% are in correctional facilities.

In 2001-02, the majority of offenders were on probation. Approximately 10% were serving conditional sentences and 1% were on provincial parole. The average probation order for adults is 18 months. For the young

offender, community dispositions average around 15 months.

We have approximately 855 probation and parole officers working in 42 area offices and 87 satellite offices throughout the province. In addition to providing supervision of offenders, probation and parole officers also prepare pre-sentence reports at the request of the court for consideration by the sentencing judge. The judge determines whether or not an offender is suitable for a community-based sentence.

Serving a sentence in the community is not comparable to serving time in custody in that offenders are not under 24-hour supervision. However, throughout their sentence, even though they live in the community, they must adhere to specific conditions ordered by the court. Examples of conditions include reporting to a probation officer, non-association with specified parties, movement restrictions, curfews, attendance at rehab programs, and abstaining from alcohol.

Similarly, an offender authorized for conditional release is required to report to a probation and parole officer and adhere to the conditions prescribed by the Ontario Parole and Earned Release Board. Supervision in the community is designed to reduce recidivism through results-based interventions and programs while ensuring public safety. The work of probation and parole services includes comprehensive assessment, appropriate supervision, including focused rehab programs, and intensive supervision of high-risk offenders.

In addition to the direct services provided by probation and parole staff, the ministry also contracts with selected community agencies to provide a variety of non-residential services such as substance abuse treatment, anger management, psychological services, community service orders, and other counselling or treatment programs.

I want to talk a little bit about the outstanding warrants identified by the auditor. It has been helpful to us at the ministry that the auditor raised the important issue of outstanding warrants. The auditor estimated that there are up to 10,000 outstanding warrants dating back as far as 10 years. We, at the time of this estimate, were unable to determine the number of outstanding warrants, but after the auditor raised the concern, in trying to get to the issue, we met with the policing services division of our ministry, and with their assistance we were able to access information through CPIC. CPIC is a national database containing operational police information for the front-



line service providers. All law enforcement agencies as well as law enforcement support agencies have access to the CPIC data files. Getting the advice from the police, we were able to determine that there were approximately 5,900 outstanding warrants on CPIC.

The monitoring of outstanding warrants is an important concern to the ministry, particularly for the small percentage of more serious offenders. The community corrections division is working closely with the ministry's policing services division to address this issue. Since the release of the Provincial Auditor's 2002 report, both corrections and police divisions have issued instructions to address this matter.

Policing services issued a bulletin to all police chiefs to ensure they provide resources as necessary to work with probation and parole officers and managers to verify the outstanding warrants. We have directed our managers to work with their local police services to review and reconcile outstanding warrants. This process requires a manual count in all of our offices, a very labour-intensive undertaking that we expect to have completed by the end of March of this year.

**1130**

To ensure that offenders with outstanding warrants are apprehended, the ministry is also building on a history of close working relationships with police services through the following initiatives: strong linkages between probation and policing services that are part of the probation and parole service delivery model; and each probation and parole officer has been directed to work with local police agencies to develop protocols for the enhanced management of offenders who are assessed as posing a high risk of reoffending.

In terms of pursuing high-risk offenders, correctional services has also developed a positive working relationship with local police forces and the repeat offender parole enforcement unit, which focuses on the apprehension of parole violators and fugitives, as well as persons identified as being unlawfully at large throughout the province. The ministry has also been involved with a similar unit that has been set up in Peel region, repeat offender monitor and arrest.

In addition to working with our criminal justice partners to address issues such as outstanding warrants, the ministry has also undertaken a major transition to actually change the way we provide community supervision. Perhaps the most concentrated step in involving Ontario's community corrections is the introduction of an innovative probation and parole service delivery model for offender assessment, supervision and programming. The probation and parole service delivery model was implemented in offices across the province beginning in the year 2000. The Provincial Auditor has recommended that the ministry focus more on reducing the risk of offenders under supervision reoffending by completing risk and needs assessments and management plans for these offenders on a timely basis. The auditor also recommended that we provide better and more suitable rehab programs that address the offenders' needs.

In essence, these are the cornerstones of the ministry's mandate for community corrections and some of the key goals of the new service delivery model. Under the model, the most intensive forms of supervision and resources are reserved for offenders who are at the greatest risk of reoffending. While implementation of the model is well underway, it is being phased in over time, given the magnitude of the initiative. The model will have an impact on streamlining case management as it expands services from solely one-to-one supervision to include group intervention, core rehab programming and a more concentrated focus on criminogenic factors, that is, those factors known to have the highest correlation with reoffending.

Under the new model, probation officers function as case managers, providing services to offenders in one of four intervention service streams, based on a thorough assessment: either basic service, rehab group service, individual service or intensive supervision service. The most intensive levels of supervision are concentrated on offenders assessed as being at the greatest risk to re-offend and/or to cause serious harm, while still monitoring lower-risk offenders for compliance with special conditions, such as community service.

Core rehab programs are designed to address anger management, substance abuse, anti-criminal thinking and two special offender groups: partner abusers and sex offenders. The auditor was critical of the ministry not addressing the correctional needs of offenders, specifically sex offenders, serving community-based sentences. Sex offenders subject to community supervision are comprehensively assessed, and where conditions of the court order or assessment indicate, appropriate rehab services are provided. That being said, unless the court orders the offender to participate in specific rehab programming, the probation and parole officer cannot enforce attendance if the offender chooses not to attend.

Providing specialized treatment programs for higher-risk offenders, especially sex offenders, has been the challenge for this ministry. As part of our service delivery model, we are working hard with community partners to access available programs. However, there are often waiting lists for these programs. Probation and parole officers are knowledgeable with regard to community resources and do their utmost to explore alternative resources where program availability is limited.

As well, the ministry is implementing a specialized risk assessment process for sexual offenders who require more intensive supervision and intervention. Further training for probation and parole officers in this process is being offered, and additional sex offender programming for delivery by probation and parole officers is under development. These have a broad focus dealing with many types of sex offenders—those with contact-related offences such as sexual assault or incest, and those with non-contact-related offences such as voyeurism, exhibitionism and indecent phone calls.

The ministry is also linking programs to those offered at the Ontario Correctional Institute and at the St



Lawrence Valley in the future in order to provide a greater level of continuity between the institutions and the community.

Under this model, the ministry provides the most intensive supervision for offenders who are assessed as being at the greatest risk of reoffending. This means we need an even closer relationship with police when it comes to these high-risk offenders.

In 1997-98 our average caseload for probation and parole officers had risen to 117 adult cases per officer, compared to a national average of 81. The ministry recognized the need to ease the caseload of probation and parole officers so they could provide more thorough and focused supervision in the community. In May of 2000 the government announced funding for 165 new probation and parole officers. These officers were hired over two years, resulting in the average caseload across the province today being reduced to approximately 85 per officer.

Furthermore, the ministry is revisiting the completion of a workload index to address staff concerns. An index was introduced prior to the introduction of our new delivery model, but many factors have changed since that time and work is underway to redefine the index to ensure an equitable distribution of work across the province, taking into consideration regional factors such as travel time in the remote areas of northern Ontario.

Ministry management is also working with representatives from OPSEU, through an employee relations subcommittee, focused on determining issues and potential solutions to workload in probation and parole services. The committee plans to release its recommendation in March of this year.

While professional staff are our most valued resource in quality community supervision, the ministry has brought in some new tools to assist them—we spoke about this a little bit at our last opportunity here on Thursday—and that's the electronic service program. Last October the ministry formed a public-private partnership with JEMTEC Inc to deliver an expanded electronic service delivery program. Up until now, electronic surveillance was mostly limited to electronic monitoring bracelets for inmates approved for temporary release from jails. The new program will significantly expand the current electronic monitoring program in two ways.

First, the ESP is being introduced to community corrections so that the compliance of certain offenders on parole or serving sentences in the community can be monitored more closely. With the ESP, our probation and parole officers now have a tool to ensure that an offender sentenced to house arrest by the court is actually at home and complying with the order.

Second, the ESP will expand the types of compliance technologies used to monitor offenders. The current radio frequency bracelets will continue to be used in some cases and voice recognition verification systems and global positioning systems will be used in other cases. The ESP is designed to equip staff with an additional tool

to monitor compliance in selected offenders that have been assessed by the courts as suitable to serve their sentence in the community. The ESP is not designed to replace community supervision; it is meant to enhance it.

The ministry is taking a strategic and gradual approach to implementing the ESP across the province. The first two areas for implementation are Ottawa and the greater Toronto area. Next year it is planned for expansion into other areas of the province.

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The offender tracking information system, known as OTIS, was introduced by the ministry in August 2001 to replace the outdated offender management system. While we have received our fair share of criticisms about OTIS, it is a huge improvement over OMS, as it utilizes state-of-the-art Web-based technology and is designed to allow for information sharing with our criminal justice partners at maturity.

It is difficult to change the way we do business. Moving from manual files to electronic ones has been difficult for some of our staff. To help ease this transition, specialized training sessions were provided for all of our staff. When OTIS is fully implemented across the justice system, it will improve our ability to manage cases and improve information sharing in the justice system. We will have the capability to track offenders at all stages in the system. While we haven't reached that stage yet, we are making great progress.

For the first time in Ontario, case management records of over 65,000 offenders under community supervision are tracked in a common database. Digital photos of any offender admitted to an Ontario institution can now be added to that database. While the Provincial Auditor expressed concerns about Internet crashes, we have since made a number of network improvements, and this has resulted in fewer instances of freezing in recent months. An enhanced community case management package for OTIS is currently being tested and is nearing implementation.

In 2001-02, our total program expenditures in community corrections amounted to \$82 million, of which \$63 million was spent on salaries. Through our new service delivery model and the complementary strict discipline initiatives, we continue to improve the effectiveness of community corrections in Ontario. We are committed to a professional organization, and we continue to develop focused staff training programs to enhance the ability of our probation and parole officers to deliver effective correction, intervention and rehab programs.

**The Vice-Chair:** Thank you, Deputy Minister. We will start with 20-minute rotations. Continuing from last week, we'll begin with the NDP.

**Mr Peter Kormos (Niagara Centre):** I'd like to thank you folks for coming again. This dispute between the number of outstanding warrants—and let's understand, we're talking about, as I understand it, warrants that are with respect to breach of probation, breach of parole or being unlawfully at large. Is that correct?



**Mr Rabeau:** Breach of probation and breach of parole.

**Mr Kormos:** And being unlawfully at large?

**Mr Rabeau:** Missing, yes. We usually refer to unlawfully at large as those who are away from an institution. But those aren't the warrants here.

**Mr Kormos:** It doesn't deal with those?

**Mr Rabeau:** No.

**Mr Kormos:** Just breach of parole and breach of probation—correct? My understanding is that the auditor began discussing his findings with you in March 2002.

**Mr Rabeau:** Yes.

**Mr Kormos:** And at that time, he presented an estimate of some 11,500 outstanding warrants, in contrast to the 10,000 which are reported in his report. Is that a fair understanding?

**Ms Deborah Newman:** I can't recall exactly how many there were at the time. The auditor was making an estimate, extrapolating on the basis of five offices out of 137 that were audited, and then doing a mathematical extrapolation.

**Mr Kormos:** Quite right. And he discussed these findings and conclusions with you in March 2002?

**Ms Newman:** That's correct.

**Mr Kormos:** And you—I'm speaking broadly now—somebody objected to the number that was arrived at; that is to say, the 11,500 number?

**Ms Newman:** We did have concerns that we thought it was too high, but we had no means within corrections to verify exactly how many there were.

**Mr Kormos:** Correct. So people disputed the number of 11,500?

**Ms Newman:** We disputed the methodology, essentially, and had some concerns about whether one could simply do a straight mathematical extrapolation. So we had some concern.

**Mr Kormos:** Who expressed that concern?

**Ms Newman:** Myself, as assistant deputy minister, and others.

**Mr Kormos:** When?

**Ms Newman:** March through June. In meetings with Mr Peters's staff, we had discussions about the issue of outstanding warrants and the number and whether there was a way to determine what the correct number was—in fact, there wasn't any valid way to do that—and then, further, to talk more about the issue of outstanding warrants, as opposed to the number.

**Mr Kormos:** Did you respond to the auditor's adjustment of the number from 11,500 to 10,000?

**Ms Newman:** Essentially we had had numerous discussions about the number, which we felt was inflated, but we had no means of verifying what the number actually was.

**Mr Kormos:** I'm told, and as a matter of fact the auditor's letter of December 6, 2002, to the minister indicates, that there was a briefing on March 8, 2002, where the number of 10,000 outstanding arrest warrants was indicated and that in fact four days later, on March 12, the ministry responded in writing. Is that correct?

**Ms Newman:** I don't have the dates of the documents. There was correspondence back and forth about the entire audit report, its recommendations and the discussions we were in with the Provincial Auditor's staff.

**Mr Kormos:** The reference to the ministry's written response of March 12, 2002, to the issue of outstanding warrants, according to the auditor, doesn't include any complaint, grievance or concern about the number of 10,000. Is that a fair representation?

**Ms Newman:** That's correct. We didn't reduce that to writing. We'd had verbal discussions and didn't feel it was necessary, because we had no accurate way of determining what the number was. In the absence of any other number, we left the issue of numbers and focused on the issue itself.

**Mr Kormos:** Sure. On May 22, the auditor again communicated with the ministry and again made reference to 10,000 outstanding warrants. On June 28, he asked for comments from the deputy minister. Fair?

**Ms Newman:** Sure, if you have the—

**Mr Kormos:** Was there any written challenge of the number of 10,000 at that point?

**Ms Newman:** I think it would be fair to say, Mr Kormos, that we never, at any point, debated the issue of the numbers of outstanding warrants in writing; that there were numerous discussions with the Provincial Auditor's staff and discussions between our deputy minister and Mr Peters. There was nothing reduced to writing with respect to the number of outstanding warrants. As I say, the issue was that we had no valid or reliable means of determining what the number actually was.

**Mr Kormos:** Did you finally arrive at a number?

**Ms Newman:** Yes, we did.

**Mr Kormos:** That was the number of 5,900?

**Ms Newman:** That's correct.

**Mr Kormos:** That was as a result of inquiries to the operators of CPIC?

**Ms Newman:** That's correct.

**Mr Kormos:** The 5,900 was determined by CPIC using what methodology? Do you know?

**Ms Newman:** On that one, we may want to call our CPIC expert forward.

**Mr Kormos:** All right.

**Mr Jeff Cook:** Jeff Cook. I'm with the policing services division responsible for the Canadian Police Information Centre system within Ontario. The methodology used to come up with the number was what they call an "off-line search," where we have CPIC services in Ottawa conduct a search based on a string of words, letters, that type of stuff. We had them search any field that had "breach of probation," "charge probation," "of probation" or any string similar to that. So "prob" or "pro," "br pro," that type of stuff.

**Mr Kormos:** "Ontario" would have been part of the word search?

**Mr Cook:** We restricted it to the province of Ontario, both municipal police services, First Nations police and Ontario Provincial Police.

**Mr Kormos:** In his comments around this dispute, the minister was always very careful to indicate that CPIC has but 5,900 outstanding warrants. Is that correct?

**Ms Newman:** That's correct.

**Mr Kormos:** How many outstanding warrants are there that aren't filed or registered with CPIC?

**Ms Newman:** To the best of our knowledge, there wouldn't be any, because the police services register their warrants on CPIC; that's the purpose of that system. But again, I think it would probably be better to have the expert talk about CPIC.

**Mr Cook:** If the police service was to get a warrant for a breach of probation, it would be entered on CPIC. We audit police services in Ontario once every four years and at the midpoint; so every two years we do what they call a quality control audit. That's CPIC national policy.

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**Mr Kormos:** I understand that an individual probation or parole officer attends at a justice of the peace in the event that they believe there has been a breach of probation or parole. Is that correct?

**Mr Michael Simpson:** Mike Simpson, acting ADM, community services. That is correct.

**Mr Kormos:** They attend there and swear out an information laying the charge.

**Mr Simpson:** That's correct.

**Mr Kormos:** And the justice of the peace determines whether or not, in their discretion, to issue a warrant for arrest.

**Mr Simpson:** Yes.

**Mr Kormos:** And there's a physical warrant prepared. It's a piece of paper. Who receives that warrant at that point?

**Mr Simpson:** It's my understanding that it's provided both to the local police service and we would keep a copy.

**Mr Kormos:** Who's "we"?

**Mr Simpson:** Probation services.

**Mr Kormos:** OK. So the probation officer gets a copy, and the person who swears the information and obtains the warrant. Who delivers the copy to the police services?

**Mr Simpson:** That, I'm not sure of.

**Mr Kormos:** Is there a protocol or a process? See, I guess what I'm interested in is, how can we be assured that every warrant that's issued by a justice of the peace ends up in police hands so that police can comply with their protocols, to wit, entering it into CPIC?

**Mr Simpson:** It's my understanding that the courts would look after that process.

**Mr Kormos:** When you say "the courts"—look, I know a whole lot of justices of the peace, have known a whole lot for a long time. Need I say more? What do you mean, "the courts"?

**Mr Simpson:** I think I'll have to get back to you on that. I'm not sure on that.

**Mr Kormos:** Is it the JP's responsibility to deliver that to the courts?

**Mr Simpson:** I'm not sure, Mr Kormos. I'll have to get back to you on that one.

**Mr Kormos:** Do we know whether the courts receive the warrant, or is the warrant delivered directly to police?

**Mr Simpson:** I'm not sure on that either.

**Mr Kormos:** I guess what I'm getting to is, I don't dispute the number 5,900, give or take one or two that somehow might have escaped a search—and that's negligible. What I'm concerned about is the number of warrants that might be outstanding that, because of the physical movement of paper that's necessary, never got into police hands. Do you have any means of determining, or assuring us, that every warrant obtained by every probation and parole officer in fact is delivered to the police services in that jurisdiction?

**Mr Simpson:** I cannot confirm that for 100%, but it would be my expectation that that is done.

**Mr Kormos:** OK. Is there a policy manual, obviously for probation and parole officers, that would prescribe this as a specific policy?

**Mr Simpson:** I'm not sure on that either, whether that is specifically in our policies or not.

**Mr Kormos:** Is there a monitoring process, is there a supervisory process in a specific probation and/or parole office that would scrutinize this?

**Mr Simpson:** Yes. On an annual basis, we do case audits on probation officers' files. In addition, once a year each office is to review both active and closed probation cases in terms of any outstanding warrants and, if there are, they are to work with the local police service to reconcile those.

**Mr Kormos:** Quite right, but why did the auditor have to conduct physical searches of files in probation—the five regional offices he conducted his research in? Why wasn't the information about outstanding warrants available to him by those respective offices if they do annual reports on outstanding warrants?

**Mr Simpson:** On OTIS, we track all our open probation cases in terms of outstanding warrants—

**Mr Kormos:** Open cases?

**Mr Simpson:** Yes.

**Mr Kormos:** What does that mean?

**Mr Simpson:** That is where there is an existing probation order.

**Mr Kormos:** So if the order's expired?

**Mr Simpson:** If the order is expired, we lose our jurisdiction in terms of that case.

**Mr Kormos:** But if a warrant's in that file that had been obtained with respect to that probationer whose probation period has expired? That warrant doesn't expire.

**Mr Simpson:** No, the warrant doesn't expire, and that remains the responsibility of the police services to follow up on.

**Mr Kormos:** I understand when you get back to the police services; I'm talking about probation and parole officers. What concerns me is, the minister not inappropriately relied upon CPIC and cited that number. Why wasn't the minister able to respond to the auditor by getting the numbers from probation officers? Why wasn't



he able to say, "No, Auditor, 10,000 isn't the number, because our annual reports from probation officers indicate that X is the number of outstanding warrants"?"

**Mr Simpson:** In response to the auditor's concerns, I have asked every office to do a manual check of that, and that process is ongoing.

**Mr Kormos:** But I'm referring to the first week of December, when this brouhaha around the numbers erupted here at Queen's Park. You didn't have any accurate numbers from probation officers in the early part of December; is that fair?

**Mr Simpson:** That is correct for probation cases that would be closed. For active cases, we would have a number.

**Mr Kormos:** So you had to rely solely on CPIC?

**Mr Simpson:** We do rely on CPIC for that, plus the manual count that's going on right now.

**Mr Kormos:** But in November/December you had no alternative but CPIC; that was the only source you could rely upon?

**Mr Simpson:** Yes, that's correct.

**Mr Kormos:** You had no idea of the number of outstanding warrants other than what was recorded with CPIC?

**Mr Simpson:** That's correct.

**Mr Kormos:** JEMTEC: is that a Canadian corporation?

**Mr Brian Low:** Yes, it is.

**Mr Kormos:** Based in British Columbia?

**Mr Low:** That's correct.

**Mr Kormos:** Publicly traded?

**Mr Low:** Yes, it is.

**Mr Kormos:** It was one of several bidders in response to the RFP?

**Mr Low:** That's correct.

**Mr Kormos:** How many other bidders were there?

**Mr Low:** There were in fact four bidders in this competition.

**Mr Kormos:** Who were they?

**Mr Low:** They were JEMTEC Inc, Chubb Security Systems, Virtual Wave Inc and Securicor Custodial Services.

**Mr Kormos:** I appreciate that only one could win the bid, but were any of them excluded because they were unable to meet the standards prescribed by the RFP?

**Mr Low:** The process audit report that we've released speaks to where various bidders or proponents met or did not meet the criteria set by the ministry. It is correct that all bidders did not make it through to the final selection process. There was a qualifying aspect to that.

**Mr Kormos:** Did JEMTEC meet all the criteria?

**Mr Low:** In being the successful bidder, yes, they met the criteria that were set by the ministry.

**Mr Kormos:** There were no criteria that were adjusted, waived or deferred for JEMTEC?

**Mr Low:** As you go through any process, there are opportunities in any transaction to review any of the expectations. In order for it to be a fair and equitable process, if there are any changes or variances, those have

to be made available to all bidders at the same time and all would have to be taken into effect. As I recall—and this took place close to a year ago now—in that process there were some very minor variations made, which all bidders, all proponents, would have been informed of and then would have been assessed on the basis of any change.

**Mr Kormos:** Obviously what I'm interested in is: was there any waiver of conditions or variation of conditions that accommodated JEMTEC that the other three bidders weren't able to respond to?

**Mr Low:** No, I don't believe there were.

**Mr Kormos:** What is JEMTEC's track record?

**Mr Low:** I would have to go back to the records to look at their actual operational history, but certainly in terms of the experience they were asked for, there were criteria for operating experience and they did meet those criteria.

We as a ministry have experience directly with JEMTEC in a separate agreement that related to the electronic monitoring program we discussed earlier, which has been in effect here in Ontario. It was for a different type of service, but we have had that experience.

**Mr Kormos:** Is the contract public record?

**Mr Low:** Yes, it is.

**Mr Kormos:** Is the payment per capita based on the number of inmates being monitored or is it based on a global figure?

**Mr Low:** The contract is set up such that it is based, after the second year, on a guaranteed minimum number of offenders who would be in the program. It is paid on the basis of the offenders who come on initially, so the actual billing would be based on individual offenders who are registered in the program.

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**Mr Kormos:** So it's per capita based, but the government has promised a minimum number of offenders?

**Mr Low:** That's correct, and in order to make this transaction both reasonable and financially possible for proponents, we selected a guaranteed minimum that we felt was well within the confines of our expectation of service delivery. So we did not feel we were extending ourselves but rather were confidently suggesting a minimum number of offenders who would be on through the duration of this program.

**Mr Kormos:** Let me understand clearly: is this surveillance being used on people who have been sentenced to jail by judges?

**Mr Low:** As we've talked about, the intent of the program is to enhance community supervision, so it could be used for conditional sentences rather than just that.

**Mr Kormos:** If the judge orders a conditional sentence with bracelet.

**Mr Low:** That's correct.

**Mr Kormos:** Because a conditional sentence doesn't inherently imply utilization of electronic surveillance, does it?

**Mr Low:** No, it does not.

**Mr Kormos:** It has to be specifically ordered by the judge.

**Mr Low:** That's correct, as a condition.

**Mr Kormos:** And the anticipated utilization is to be determined by the ministry of corrections—the old ministry of corrections?

**Mr Low:** We have the responsibility to ensure, if we have services available, that we have a financial envelope available and that we are able to provide services if they are made part of a condition. So, yes, we are responsible for anticipating and estimating the quantity of services that would be required, and we will follow and monitor that through the implementation of the program.

**Mr Kormos:** I want to understand, because the contract requires the province to deliver up this minimum number of inmates to JEMTEC.

**Mr Low:** That's correct. Sorry—offenders.

**Mr Kormos:** Well, offenders. But how many conditional sentences imposed by judges are currently outstanding in Ontario?

**Mr Low:** I'm sorry; I don't have that information. I'm not sure.

**Mr Kormos:** How many conditional sentences that are outstanding utilize electronic surveillance as a result of the judge's terms of the conditional sentence here in Ontario?

**Mr Low:** At this particular time, there are over 3,000 conditional sentences. Having said that, we have just introduced a program in January. As part of the implementation, we have, as I explained last week, begun the transition of our electronic monitoring program that has been in place. Gradually, as we speak with the justices throughout the province in the areas where we will be introducing the program—

**Mr Kormos:** How many of these conditional sentences—the 3,000 outstanding, currently being served—require the use of electronic surveillance as ordered by the judge imposing the conditional sentence?

**Mr Low:** To my knowledge, at this point there would be none, because we have not offered the service in conditional sentences. That in fact is the purpose of entering this program, so that we can offer that as a service to the justices. It has been explored and discussed previously, and there were times in the past when we had requests. But since it was not available, we weren't able to ensure that was there.

**Mr Kormos:** And the fee charged is per capita, per diem, I trust.

**Mr Low:** There is an installation fee, and then there is a monitoring fee.

**Mr Kormos:** Who does the monitoring?

**Mr Low:** The responsibility for monitoring the technology rests through our contract with JEMTEC.

**The Vice-Chair:** We'll move on to the government caucus.

**Mr Raminder Gill (Bramalea-Gore-Malton-Springdale):** I'll change the line of thinking a little bit. In terms of sex offenders and rehabilitation programs, one of the concerns the auditor showed was that of the 3,000 sex

offenders being monitored in the community, 600 are not receiving appropriate treatment. Any explanation for that?

**Mr Rabeau:** I'll ask Deborah to answer that.

**Ms Newman:** As you mentioned, Mr Gill, of the 65,000 offenders we have under supervision in the community, approximately 3,000 are sex offenders. I think it's also important to understand that there is a continuum of sex offenders; we have a range of offenders, from non-violent offenders at one end—the indecent telephone calls type of offence—to sexual assault at the other. In terms of our interventions, they have to be targeted appropriately given the nature of the offence. Sex offenders are not a homogeneous group. All sex offenders, though, fall into our intensive supervision category. We provide intensive supervision and monitoring of all sex offenders and hold them accountable in terms of close supervision. We also work very closely with the police in terms of monitoring the activities of all sex offenders under our supervision.

In terms of treatment and the provision of treatment services, we work with community agencies very closely in terms of service delivery. Where we have the availability of resources in the community, we contract with service providers to provide those clinical services. Just to give you some examples of some of the kinds of services that are available to sex offenders, we've created partnerships in the community, for example, with the Kingston forensic behaviour clinic. They provide psychological treatment services for sex offenders in the Kingston, Belleville and surrounding areas. We provide sex offender counselling through community contracts in communities like Sudbury, Toronto and Hamilton. Windsor has created a sex offender treatment program. In Toronto, we also are able to access sex offender treatment through the Centre for Addiction and Mental Health. Similarly, in Ottawa through the hospital system, through the Royal Ottawa hospital, we are able to ensure the provision of treatment services to sex offenders.

We do attempt to contract with community agencies wherever possible for that treatment service delivery. Unfortunately, Ontario is not uniform in terms of community capacity to deliver sex offender programs, so there are some gaps across the province around availability of programs. As part of our new probation and parole service delivery model, we have introduced sex offender programming as one of our core rehabilitative programs. We've trained a number of our probation officers across the province so they can actually deliver treatment programs to sex offenders where gaps exist in the system across the province.

We're in the process of implementing a new, specialized sex offender risk assessment tool that we're training our staff on. We're also in the process of providing further training to our probation officers to deliver sex offender programs in the province.

So I think we're attempting to address the uniformity of programming that the auditor has brought to our attention, both through contracts with community agen-



cies and actually training our staff to provide that service ourselves where it is missing in communities.

**Mr Gill:** Who decides which one of the sex offenders needs the rehab program? How do you decide on the criteria?

**Ms Newman:** Our probation officers conduct a very comprehensive assessment of every sex offender who is placed under community supervision. They would do a needs and risk assessment of each sex offender, including a number of collateral contacts with others, in addition to gathering a lot of information about the offender from a variety of sources. They'll then make an assessment as to the needs of and the risks posed by a particular offender and make a determination about targeting programming specific to the presenting profile of that individual.

**Mr Gill:** Is it also decided by the courts, as to the judges stating a certain number of people or that so-and-so needs the rehab program?

**Ms Newman:** Yes, absolutely. It's actually up to the judiciary to impose a condition of probation that requires an offender to take treatment. In some cases we may end up with sex offenders under supervision, but if the court has not imposed a condition to take treatment, then our probation officers are unable to enforce treatment with respect to that offender.

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**Mr Ernie Hardeman (Oxford):** I just wanted to very quickly go on with Mr Gill's question. First of all, in my comments to the auditor, I interpreted that of the 3,000, 2,400 were not receiving the treatment they said they would take if it was available. But I guess it was the other way around: 600 are not receiving the treatment. I didn't read the word "not" in the comments; that of the 3,000, it's 600 who are not receiving treatment.

**Mr Erik Peters:** No, the 600—you are right in the 2,400; 2,400 did not receive and fewer than 600 received. Out of the 3,000, these were the people—

**Mr Hardeman:** Then I was right in the first place.

**Mr Peters:** You were right in the first place. Also, the 3,000 were the people the ministry staff indicated required rehabilitation programs.

**Mr Hardeman:** I just want to go on with that for a moment. I asked the auditor and I'd like some clarification as to how we decide those offenders who would take treatment but can't because it's not available. It's very easy for an offender to say, "Oh, yes, I would take it if only it was available," knowing it's not available. I wonder, how does the ministry come up with the number of those who would take the treatment if it was available?

**Ms Newman:** We start with the number—3,186 is actually the total number of sex offenders under supervision in the province. Then our staff conducts a comprehensive assessment of the needs and risks posed by each offender. We also consider whether or not there is a condition that a probation officer can enforce. In the absence of a condition to enforce treatment, our probation officer is not able to insist that an offender take treatment. So there has to be a condition that's going to be enforced.

If there's a condition to take treatment and the probation officer assesses that offender and wishes to ensure that they take treatment, then they would be referred to a community agency that's providing such treatment. If there are no community resources available in that particular community, then that's where we're trying to train our probation officers to essentially fill that gap. So if there is no treatment program and in the case of those whom the auditor identified, we expect that to change as we continue to roll out more training for our staff, so that more and more of our staff are able to address the gaps in service delivery in various communities in the province.

In the meantime, we ensure that those people are very closely supervised. In the absence of a treatment program, our staff continue to ensure that public safety is the first priority. Those individuals are monitored very closely and we work very closely with the police to ensure that they're held accountable and that their activity is monitored.

**Mr Hardeman:** You spoke a fair bit about community involvement and community organizations or community partners that help with this treatment program. What does the ministry do to facilitate that? One of the things I find in my community is that there are many organizations that start up because they see a need in their community for this type of program. All of a sudden it becomes almost the deliverer of service for the ministry as opposed to helping those people in the community whom they're set up to help. Obviously their ability to grow and their resources are limited, so they can only provide so much service and all of a sudden they're not available to the general population because the court orders this treatment and all their time and resources are used for that treatment. How does the ministry deal with encouraging further resources or further opportunities in the community?

**Mr Simpson:** I think I could speak to that. The ministry works quite closely with our community partners and we contract for specific services and fund those services. So in many situations it's not a case of competing in terms of an agency's overall mandate to serve the community population in that we fund specifically to serve a certain number of individuals so that we're not competing directly.

In other situations, though, the offenders are on waiting lists for service with community agencies with which we don't have contracts. In that situation, they could be competing for a spot with someone else in the community.

**Mr Hardeman:** One final question: I heard it mentioned in your presentation about—and this is particularly with sex offenders—violent and non-violent. I guess I'd like to know how you define a non-violent sex offender.

**Ms Newman:** As was mentioned, there is a continuum of sex offenders. Non-violent sex offenders would be sex offenders where there is an absence of any kind of assault against the person. In that category of offences we would include things like indecent telephone calls or exhibition-



ism. Then there's a continuum of others along the way. Certainly the most violent are the sexual assault offences. They present different kinds of profiles and different sorts of risk factors and underlying issues and problems that need to be targeted through appropriate treatment programs and interventions.

**Mr AL McDonald (Nipissing):** Thank you for appearing before the committee again today to answer some of our questions; I have a number. The first one is, what kind of relationship does the correctional services division have with the local police services?

**Mr Simpson:** I can speak to that. Mr McDonald, we work very closely with our local police services as part of a team that supervises offenders who are in our community. More specifically, it's our expectation that each of our probation offices will develop protocols with their local police services that would clarify things like how information is communicated back and forth, what happens if there's a high-risk offender in the community, those kinds of things, so that both the police officer who is on the street and our probation staff person are kept as well informed as possible by the sharing of information between the two and by working as closely as we can with them.

**Mr McDonald:** What role do community-based agencies play in community corrections?

**Mr Simpson:** Our community-based agencies, as Deborah was mentioning, assist us in providing a variety of services to offenders. Some of those services are for rehabilitation or treatment; others are for assisting an individual to fulfill his or her community service order. We see them as an important adjunct to our service. It allows us to expand our reach into the communities in terms of developing a network of services. It allows our probation officers to focus on the priority aspects of their job, which is the assessment and supervision of offenders who are on probation or conditional sentences. It also provides us with a source of information with regard to what's happening in our communities and what's happening in terms of the role that we as an organization need to play in our communities. So we see working with community agencies as very valuable to our service and we see our working with them as part of the contribution that we make to assist offenders in terms of their own rehabilitation.

**Mr McDonald:** How does the ministry feel about its partnership with these community agencies?

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**Mr Simpson:** In my view, they are a vital part of what we're about. As I mentioned, it allows us to offer opportunities for offenders that perhaps would not be available. As I mentioned also, it allows us to ensure that our probation officers can focus on other aspects of their work, and it gives us a vehicle to both be aware of community needs and to play an active part in terms of helping communities develop and provide services to their citizens. So I think it's an extremely valuable partnership.

**Mr McDonald:** That's all the questions we have.

**The Vice-Chair:** We move on to the Liberal caucus.

**Mr Dave Levac (Brant):** I appreciate the auditor and his team's earlier deputation. I found it interesting. It probably did generate some questions, so I want to thank the members for being present. Again, my questions might be a little probing but they're not meant to do anything other than to try to get things to the surface so that we can deal with them in the most appropriate way. I want to start my questioning with Mr Cook.

Mr Cook, there was reference to the 5,900 from CPIC, and what I think I heard was that you believe that all of the information that was put in to CPIC was the absolute numbers. The implication that I got was that all police services submitted all of the information on the warrants to CPIC.

**Mr Cook:** The CPIC national policy reference manual indicates that if a warrant is received by a police service, it is to be entered on CPIC under a warrant or warrant category.

**Mr Levac:** Is the assumption, then, that every one is submitted?

**Mr Cook:** That's the assumption we go on.

**Mr Levac:** Is there a backup to that?

**Mr Cook:** When we do our audits, we audit to the originality of the warrant. So for an entry, the police service must produce the original warrant to us when we do the audit.

**Mr Levac:** In your audits have you ever found that police services were not submitting any information on warrants?

**Mr Cook:** Not in the ones that I have partaken in. In fact, most police services actually make copies of warrants, but they have to stamp those as duplicates. So if they don't have the original, they have a copy. We want to see the original, so they have to go and get the original. We will audit to the original. But we are assuming that if the warrant is in the service, then it will be on the system. Most police services file warrants in a separate area within their police services for hit confirmation.

**Mr Levac:** So you would classify it as as close to foolproof as possible that this 5,900 given to us by CPIC was a correct number?

**Mr Cook:** Yes.

**Mr Levac:** I'm just trying to get that clarified because, as you may or may not be aware, we have heard that there are people saying we may not have the full numbers given to us by CPIC because there were communities that were simply not putting the data in. You can take a number from that that is not in question; I wouldn't question that that wasn't a warrant. But the questions were whether we are getting all of them put into CPIC for Ontario and whether indeed those are the true pictures of that.

**Mr Cook:** That is the policy of Ontario and the CPIC reference manual.

**Mr Levac:** OK. That was after the, originally, 11,500 and then the subsequently reduced 10,000. That was after the fact.



Maybe I could ask you this, and then switch to the ministry personnel. You were requested to get that information after the auditor's report was submitted?

**Mr Cook:** That's correct. This information is valid for November 14 only. Because CPIC is a live system, warrants are being added and removed daily. As of November 14, that was the number on CPIC.

**Mr Levac:** Are you aware that the auditor did not receive that information?

**Mr Cook:** No, I'm not.

**Mr Levac:** Ministry officials, then: are you aware that the auditor, to this point, has not been able to get a copy of the report that was requested?

**Mr Rabeau:** I wasn't aware that we hadn't provided the auditor with that report. I don't know whether we've had a request out for the report—

**Mr Levac:** Let me qualify that with what I'm interpreting as what I may have heard the auditor refer to this morning. I would defer to him if he needs to clarify that further.

**Mr Peters:** Thank you. I would like to clarify that. By the time we tabled the report, that number had not been made available to us. The first time we heard about the report was when the minister raised it in the House, and we have not since made a request for that information, but it was November 14. We didn't ask for it and we were not informed. We didn't even know it existed.

**Mr Levac:** Having said that, I appreciate that clarification because I don't want to paint a picture here of lack of co-operation. What I'm suggesting—and maybe I can springboard from that and suggest that when this controversy arose, would it not have been wise to deal with the auditor in a way that made it clear to him what it was you were trying to say versus whether or not you indicated that you questioned or challenged the number?

**Mr Rabeau:** I think it's fair to say, Mr Levac, when we were looking for the number, it wasn't to deal with the number, it was to deal with the problem that the auditor identified. So we were looking at a way of having to improve our interface with the policing community in the province. The number was generated because of that dialogue in respect to trying to deal with the issue that the auditor raised. So it had no bearing on the report per se in terms of what the number was; we were dealing with the problem.

**Mr Levac:** Thank you. It's unfortunate that your ministry or the work that you did was then turned into the next level, which it ended up being, as a dispute between the numbers. Obviously, you did not do that, but somebody most definitely did that in the House.

Having said that, the question I would ask is, earlier, Deborah, you had indicated that there was a verbal discussion about the 11,500 and the 10,000 at one time, yet you said you didn't have a system in place to know what your numbers were. I don't know if this is logical or not, but was it because you had a hunch that the number was too high or was it that you just simply didn't like that the numbers were too high? If you didn't have a system to check that out and then the auditor says, "You've got a

problem"—and I want to repeat, I understand. You've indicated clearly and so has the deputy minister, and I agree, that there's a problem and we need to arrest the problem, but how could you challenge the number of 11,500 if you didn't have anything to back that up?

**Ms Newman:** The discussions we had with the auditor's staff at that time were that we didn't have any means within our jurisdiction in corrections to determine what the number actually was. We were concerned that there was an issue, certainly, that needed to be addressed but that putting a number on it without actually knowing what the number was was not going to be helpful, and in the absence of any reliable way of knowing what it was, it also wasn't helpful to give an estimate based on a straight mathematical extrapolation on the basis of five offices across the rest of the system. It would assume a lot of things: that those five offices are representative of every other office and every other community across Ontario, which we didn't believe to necessarily be the case, and so on. So there were some concerns about—

**Mr Levac:** Methodology.

**Ms Newman:** —the methodology.

**Mr Levac:** So the methodology in terms of the math formula that you're saying was used by the auditor brought a question to the 11,500 and then subsequently the 10,000 versus anything else. Did you specifically say in your conversations, "We really have a problem with using the methodology of extrapolation"?

**Ms Newman:** Yes, we did.

**Mr Levac:** Having said that, was it then your decision to look to CPIC?

**Ms Newman:** Subsequently, as the deputy mentioned, as we were trying to get a handle on the issue and trying to get a sense of the magnitude of the issue, we had an opportunity through new connections that had been made through the policing services division to try and ask for this special CPIC run to be conducted for us, to try and get a better handle on what the magnitude of the issue is. We were already working on addressing the issue and forging stronger relationships with police to resolve it.

The other focus of our discussion had been that once a warrant is issued, probation services lose jurisdiction over the case. It's no longer our jurisdiction; it becomes a matter of police jurisdiction. So the auditor was raising an issue for us that we had no particular control over except for his recommendation—which was very appropriate, if I may say—that we work more closely with policing services to try and get a handle on this, which is exactly what we've done.

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**Mr Levac:** Jeff, it has been indicated that the auditor found there were approximately 450 level 1 offenders, versus the 178 ministry-identified level 1 offenders. In CPIC, does that process get used as well to delineate the difference between level 1, level 2 and subsequent levels?

**Mr Cook:** No. There's nowhere in CPIC where that would be registered as a level 1 or level 2. It just states that there is a warrant and the warrant is for a breach of



probation. The police service that stops the person on a positive hit has to call the police service, hit "confirm" that the warrant still exists, and then contact the probation office that issued the warrant.

**Mr Levac:** With your expertise—you've been designated—are you of the opinion that that's something which might be a valuable exercise for ministry information, auditor's information and information for the public at large and that should subsequently be done, that Ontario should work with CPIC to say, "Do you know what? Even though we've got this outstanding warrant process, I think we should ratchet it up a little bit and say level 1, level 2 or level 3," as part of a statistical approach that would assist in lessening the controversy between the actual numbers that are being used—as Mr Hardeman characterized it, and I agree, it's a problem. We need to arrest it.

**Mr Cook:** Changes to CPIC—because it is a national system, it's not captured anywhere at present. The local police service records management systems would have that information. It's a phone call away to the agency that has the warrant on the system. To get that type of change or to change policies that way, it would have to go to the national level, to the CPIC national advisory committee.

**Mr Levac:** That's a statement of what could be done or should be done. Do you have an opinion, knowing what you know and knowing what we're looking at?

**Mr Cook:** I don't think it matters to the police service that's executing the warrant. They know there's an existing warrant, and that's what they react on.

**Mr Levac:** Good. What I'm looking for is not necessarily an added responsibility or more negotiations to improve or change CPIC, but the actual path to take to find the information, because, quite frankly, we've learned through this episode that we didn't have some information we should have had.

**Mr Cook:** That's correct. Actually, even just this morning I've been talking to Mike about enhancing the linkages between CPIC and the OTIS system. So we are looking at those avenues.

**Mr Levac:** Very good. Thank you.

I want to move a little bit to—and could I know when I have five minutes or so left?

**The Vice-Chair:** Yes. You have about eight minutes right now, so I'll let you know.

**Mr Levac:** Thank you. I'll do it quick and turn it over to Richard.

I want to get to the sex offenders issue of 2,400 not being able to access rehabilitation. I understand clearly what you're saying about trying to provide those services, but it was clear to us from the auditor that these were people who wanted that and who had indicated a willingness to participate, as opposed to those whom you can't force to take it, didn't want to take it or were reluctant to take it. I think there's a distinction between those who are looking for rehabilitation and those who will reoffend. I know there have been several research projects which indicated clearly that until the person

identifies for themselves that "I want to rehabilitate myself," they're just a revolving door. We all know that.

You've indicated that you're taking steps to provide those services. You're spending \$2 million on rehabilitation versus \$8 million on the other part of the program for rehabilitation and inside corrections. I'm a little concerned with putting your money where your mouth is. Is it because you can't afford other programs, or is it because you're still working on linkages between programs that are out there in the community, versus those who are asking for rehabilitation and not getting it?

**Ms Newman:** With respect to the distinction of the number of those offenders who are motivated or not, our total number of sex offenders is 3,186. I'm not sure if the auditor was saying that all of those sex offenders are motivated to take treatment. Maybe there's a clarification that's needed. But in any case, certainly not all 3,000 of those sex offenders would be motivated for treatment. A number of them are going to be in denial that there's any sort of a problem or that they even committed an offence. Others, of course, are going to be motivated. I don't know the numbers of motivated versus non-motivated offenders of our total 3,000 sex offender population; it's not a statistic we keep. But certainly if an offender is motivated for treatment we would make our best effort to ensure that they get that treatment either through community contract, where it's available, or, if it's not, to train our own staff.

So in terms of, as you put it, Mr Levac, putting our money where our mouth is, certainly I think where resources exist in communities, we would want to support those through a community contract in ensuring the provision of treatment. It's where they don't exist that we have this difficulty and where we're trying to train our staff to fill that gap. Our staff are providing two levels of program to sex offenders in those categories; one is trying to work with offenders who may not yet—the light hasn't gone on and they're working with them to try and have them understand that there is a problem and an issue. So they're in the pre-contemplative stage of treatment. Then there are others who recognize there's a problem and they're providing a more intensive form of treatment program to them.

**Mr Levac:** Mr Patten has one question.

**The Vice-Chair:** There was a point of clarification that was asked for, and then Mr Patten.

**Mr Peters:** Just a point of clarification: the number that we developed came from interviews of local staff. Staff informed us that those were people identified who needed a rehabilitation program. So we compared what staff said was needed versus what was available.

**Mr Andrew Cheung:** It's essentially based on the ministry report in which staff identified 3,000 offenders needing the appropriate program.

**Ms Newman:** Thank you. That would be our total sex offender population. I wouldn't debate that they probably all need treatment.

**Mr Richard Patten (Ottawa Centre):** How much time do I have?



**The Vice-Chair:** You have approximately four minutes.

**Mr Patten:** OK. What I'd like to do, then, is tell you where I'm coming from. I try to be supportive of what I would expect and believe would be the aspirations of professionals within the ministry. According to your own words, "Research done by the ministry shows that punishment and surveillance are not effective in reducing reoffending rates. Instead, what is effective in reducing reoffending rates is addressing the correctional needs of offenders through rehabilitation programs," and there are a few examples of that.

"On average, offenders spend"—and it gives a time frame. I don't have the time in this round, but I will go back to it later.

Overall, the ministry had a cutback and corrections had a cutback as well—I believe something to the tune of \$8 million or \$9 million. Some of that was reflected in community corrections. Of the \$8 million that is spent in community contracts, \$2 million is on rehab and \$6 million is on supervisory conditions such as sanction orders or whatever it is. In other words, it's all on the control side, the punitive side; it's not on the rehab side. According to your own message, which I truly appreciate, the resources are not going there. What do you say to that?

**Mr Simpson:** Thank you, Mr Patten, for that question. We have a responsibility to also look after community service orders and to contract with agencies and organizations across the province to assist in carrying out that work. In other words, if an individual has an expectation as part of his or her probation order to do some restitution work by doing some work in the community, those kinds of things, we need to enter contracts to look after that, and in order to fulfill that expectation of the court, we have to spend resources in that area. We do try to balance resources for rehabilitation versus resources for community service orders by themselves. Is it a perfect mix or a perfect balance? It's one that's not static. It's one we adjust accordingly as we review the needs of our offender population.

1240

**Mr Patten:** If we could still compare apples with apples—if corrections were stand-alone, which it isn't any more—and we look at the overall budget, it's about \$1.7 billion or in that neighbourhood. Is that the figure, just ballpark?

**Mr Rabeau:** That is for the ministry. Our budget is around \$600 million, somewhere in that neighbourhood.

**Mr Patten:** Yes, \$667 million, which is down a little bit from the year before. Yet you have a growing population, and as you have already explained, remands are a big part of that.

However, in trying to be supportive of your mission and your acknowledgement of where resources should be increasing, it seems to me that a 13% decrease in transfer payments this year, presumably to the Salvation Army, halfway houses, Elizabeth Fry etc—I don't know if the YMCA is still involved in young offender programs. One of the recommendations the auditor made was that the

levels of funding are not based on actual service needs and requirements but on historical levels, and therefore, "Well, we'll add a 1% factor." I suppose you would know as well as I do that these agencies are not profit-making agencies; they're there to do the very best job. If they're not able to do the very best job, then I wonder why they hang in sometimes. Some of them, of course, have removed themselves from the mix over time.

My question for the moment is, these are not the golden years of working with community organizations and working in the community, are they? In fact, that is really the least expensive way to go and in many ways the most effective, if you want to talk about rehabilitation, reorientation, retraining, skills development and things of that nature. Would you agree with that?

**Mr Simpson:** We value working with agencies. They are a very important part of our service spectrum.

In terms of the auditor's concerns, we do need to pay closer attention to reviewing a community's needs when it comes to renegotiating contracts and make sure we have clear performance expectations for the organization which are responsive to the needs we're seeing in that community. We're taking steps through our performance outcome process to be better able to do that so we can clearly communicate our expectations to an organization, better track whether they're meeting those expectations and also make the necessary adjustments in terms of contracts to be responsive to community needs.

**Mr Patten:** Thanks. I'll come back to that.

**Mr Peters:** I just want to put on the record that we appreciate the co-operation we received from the staff on this audit. Certainly we were concerned about this kerfuffle, if you will, about the numbers. I also appreciate the minister's saying, in his letter to me of December 12: "I wish to assure you as well that staff from this ministry will continue to work co-operatively with staff from the Office of the Provincial Auditor in identifying and resolving such issues in the future."

I think we have dealt with a number of issues, as we said, in the discussion, and much has been made of the discussion that the deputy minister and I had. I have reconfirmed with him that what happened, just to clarify, was that our extrapolation showed a range. The upper end of the range was 11,500 and the lower end of the range was 10,000. There was agreement with the deputy that in our report we would use the lower end of the range.

With regard to the content of level 1 offenders, I think we have heard from Mr Cook that that information is not available from CPIC. Yet there was some dispute made of that number, so I'm not sure. We know that our count was—30% of the files we counted with outstanding warrants were level 1 offenders. The minister reports on Hansard the number of 178. I don't know the source of that information, and you may want to comment on that.

That was maybe the only question or cobweb that is still in my mind. But I do appreciate the minister saying, "Look, you have identified a valid issue, and we are

going to deal with it.” I think that is most important for this committee and most important for the people.

**The Vice-Chair:** Thank you, Mr Peters. With that, there’s an indication that there are more questions for this afternoon, so I will recess the committee until 1:45. Before I bang the gavel, that’s about an hour.

**Mr Kormos:** Just if I may, I don’t need—that gives us around an hour. I don’t know what other people are interested in.

**The Vice-Chair:** Well, it was suggested by the government caucus that we didn’t need an hour.

**Mr Kormos:** I’d be fine with 45 minutes, quite frankly. Do we need an hour?

**The Vice-Chair:** Consensus? How’s 1:30?

**Interjection:** One hour.

**The Vice-Chair:** One hour, I’m told. One hour. OK, we’ll reconvene at 1:45.

*The committee recessed from 1247 to 1347.*

**The Vice-Chair:** The standing committee on public accounts is in session again this afternoon to consider the 2002 annual report of the Provincial Auditor with regard to section 3.08, community services program, Ministry of Public Safety and Security. The rotation now goes to the NDP caucus.

**Mr Kormos:** Folks, we have already made reference to the December 6 letter of the auditor to Minister Runciman. I think we’ve confirmed the statement in there as accurate, and that is the statement by the auditor that “The number of 10,000”—this is referring back, of course, to the outstanding warrants—“was never challenged in writing to us by the ministry,” and that’s an accurate statement, isn’t it?

**Mr Simpson:** Right.

**Mr Kormos:** But then subsequently, on December 11, the auditor writes to the minister, and in that letter the auditor writes, “There was no concern raised by ministry staff in the numerous meetings, telephone conversations and written responses in the period from March to November, that the estimate that there could possibly be as many as 10,000 was inflated.” Is that similarly accurate?

**Ms Newman:** I’m not sure what—again, perhaps there needs to be some clarification of what the intent of that statement is. In fact, we had numerous discussions. It was our sense that it probably was inflated but, again, we did not have any statistics to suggest that there was another number.

**Mr Kormos:** You didn’t have any better information, did you?

**Ms Newman:** Exactly.

**Mr Kormos:** Right, and so the auditor’s estimate of 10,000, which he had downgraded from 11,500, was the best information at the time.

**Ms Newman:** It was an estimate based on a mathematical extrapolation, the methodology of which we had expressed some concerns with, as I said earlier.

**Mr Kormos:** Because it was only an estimate.

**Ms Newman:** Correct.

**Mr Kormos:** And you had no better information at the time, did you?

**Ms Newman:** That’s correct.

**Mr Kormos:** But then a decision was made to access CPIC, which was done sometime mid-November.

**Ms Newman:** That’s right.

**Mr Kormos:** Because there was concern in the ministry about the number 10,000.

**Ms Newman:** I think it was as we continued to try and explore the issue and get a handle on the magnitude of the issue that we were able to make those arrangements for that special run of CPIC.

**Mr Kormos:** Yet you had first been exposed to the estimate of 10,000 as the lowball, 10,000 to 11,500, in March 2002.

**Ms Newman:** That’s correct.

**Mr Kormos:** And it wasn’t until November that the ministry decided to access CPIC and do this run? I think it was November 14, wasn’t it?

**Ms Newman:** I’ll turn that over to Mr Simpson.

**Mr Simpson:** That’s correct.

**Mr Kormos:** And when was the decision made to access CPIC to see how many outstanding warrants were documented/registered with CPIC?

**Mr Simpson:** In early November, I began a process of speaking with my counterpart in policing services to begin to take a look at this issue of outstanding warrants because what we wanted was to begin to address the issue the auditor had raised, and in order to do that, we wanted to begin to understand from CPIC what information they had.

**Mr Kormos:** But that was approximately eight months after the information first came to you which resulted in the auditor’s investigations into five regional offices.

**Mr Simpson:** That’s correct.

**Mr Kormos:** And you had concern of one type or another about the number 10,000 from the get-go? That’s what you’re telling us.

**Mr Simpson:** The concern we had was in responding to the auditor’s recommendation that we needed to take a look at the issue of outstanding warrants and, as the auditor suggested, to work more closely with our police services, in terms of understanding that information and, more importantly, acting on those warrants.

**Mr Kormos:** But in terms of responding to the auditor, why did it take eight months for you folks to say, “Well, hey, why don’t we have CPIC run a program to see how many outstanding warrants are registered with CPIC?”

**Mr Simpson:** The purpose of accessing the information from CPIC was to begin to address the issue the auditor had raised about, “Are you working closely with police services?” I wanted to move forward on that, and as part of that, in our discussions, we wanted to utilize CPIC to get a better understanding of the nature of the problem.

**Mr Kormos:** And who approved the utilization of CPIC to obtain a number?



**Mr Simpson:** That would have been my counterpart, the ADM of policing services.

**Mr Kormos:** He provided you with access to CPIC?

**Mr Simpson:** No. He provided us with the information.

**Mr Kormos:** In terms of the content of CPIC?

**Mr Simpson:** Yes.

**Mr Kormos:** Who directed that CPIC be utilized to determine the numbers?

**Mr Simpson:** It's my understanding that my counterpart, the ADM of policing services, made that decision.

**Mr Kormos:** So running a program through CPIC didn't come from the Ministry of Public Safety and Security?

**Mr Simpson:** Given that policing services is part of our Ministry of Public Safety and Security, the answer to that would be yes.

**Mr Kormos:** Because my sense—I wasn't there; I wasn't even the little fly on the wall—is that people were concerned about the fact that there could be 10,000 outstanding warrants. People in the minister's office were concerned about it. That's fair, isn't it?

**Mr Simpson:** My concern was to get going on the auditor's recommendations and begin to address them.

**Mr Kormos:** My concern is that after obtaining the results of the CPIC search, the minister then characterized the auditor's numbers as inaccurate and misleading. Am I correct in my recollection of how the minister identified the auditor's numbers?

**Mr Simpson:** I don't have an opinion on that.

**Mr Kormos:** No, am I correct in my recollection of the minister's characterization?

**Mr Simpson:** I don't know.

**Mr Kormos:** I'm sorry?

**Mr Simpson:** I don't know.

**Mr Kormos:** You don't remember whether or not the minister would have characterized the auditor's numbers as misleading or inaccurate?

**Mr Simpson:** No, I don't know that.

**Mr Kormos:** Political staff were undoubtedly working with you in your response to the auditor's report, including his preliminary discussions with you about his report. That's accurate, isn't it?

**Mr Simpson:** We briefed the minister's staff on the report when it was released, yes.

**Mr Kormos:** When was the idea first floated of relying upon CPIC to determine a count of outstanding warrants? It was done on November 14. When was the idea first floated?

**Mr Simpson:** I don't have the exact date for that, but it was at a meeting probably a few days or so ahead of that.

**Mr Kormos:** So it was only in the first week or week and a half of November that the proposal of relying on CPIC came forward?

**Mr Simpson:** Yes, it came forward as a strategy to help us get a handle on the situation.

**Mr Kormos:** But in view of the concern—you clearly had a concern about the 11,500; everybody agrees there

was concern about that number. The auditor indicates it's as a result of that concern that he went to the lower end of his estimate of 10,000. There was no discussion of utilizing CPIC in March, April, May or June 2002?

**Ms Newman:** No, there wasn't. I think at that time the focus of our discussions was that regardless of what the number may or may not be, whether it's 10,000 or any other number, the important issue for us was to try to work on the matter of outstanding warrants, regardless of whether there were five or 500 or any other number. In other words, we were less focused in our discussions around what the number may or may not be and more focused on what we did about this issue of outstanding arrest warrants, which becomes a police jurisdiction issue once there is a warrant in the system. We needed to address the auditor's recommendation.

The auditor recognized that correctional services doesn't have jurisdiction, regardless of the number, and it then becomes a police function to arrest those with outstanding arrest warrants. The focus of our discussions was, we felt probably productively, around how we work with the police to ensure that offenders, regardless of the number, are arrested if there's an outstanding warrant.

**Mr Kormos:** Were any of the people here today participants in the development of the strategy to use the CPIC numbers as a method of discrediting the auditor's numbers?

**Mr Simpson:** No. I met with my counterpart, as I mentioned, to begin to get a handle on this issue and to deal with the auditor's recommendations.

**Mr Kormos:** Did the minister or political staff instruct any of you, your colleagues or your subordinates to find numbers that would contradict or constitute a comparison or comparator to the auditor's numbers?

**Mr Simpson:** I received no such instruction.

**Mr Kormos:** You didn't. Are you aware of anybody else getting instructions to that effect?

**Mr Simpson:** No, I'm not.

**Mr Kormos:** You're not aware of whether or not anybody got instructions to that effect?

**Mr Simpson:** No.

**Mr Kormos:** The terms of JEMTEC's contract: did the RFP identify that there would be subcontractors involved in the delivery of service regarding surveillance?

**Mr Low:** Yes, the RFP allows for the opportunity to subcontract various portions, and the RFP, which is a public document where you could review the actual language, identifies the terms of that and what the restrictions or the parameters of any subcontracting would be.

**Mr Kormos:** Were subcontractors subject to approval by the ministry or the government?

**Mr Low:** Yes, as both the request for proposals and the services agreement state.

**Mr Kormos:** So we've got JEMTEC as the lead party in the contract, and we've got the Salvation Army as a subcontractor. What other participants are there in the fulfillment of this contract?

**Mr Low:** The contract, which is part of the services agreement and is on public record, is signed with JEMTEC Inc and BI Inc.

**Mr Kormos:** Who is BI?

**Mr Low:** I'm sorry; I don't have the exact nomenclature of BI.

**Mr Kormos:** What do they do?

**Mr Low:** As I understand it, they are a company that was part of the consortium that came forward with the proposal—understanding, as we've discussed before, that we had expected that with a requirement, as we had, for different areas of our surveillance, very few companies could provide all the services and that various companies would be coming together, either as a consortium or in subcontracting.

**Mr Kormos:** So you've got JEMTEC, you've got BI and who else?

**Mr Low:** As you mentioned, we had JEMTEC come forward with regard to subcontracting, and there are two subcontracts that we have reviewed. One is with the Salvation Army, and I'm sorry but I don't have the name of the other firm at my fingertips. I can look into that and get that information.

1400

**Mr Kormos:** What were the minimum number—you indicated that in the contract the government guaranteed a minimum number of participants to be surveilled.

**Mr Low:** Yes. I'm not sure if that is the correct word.

**Mr Kormos:** Unless that's a little neologism we just concocted here.

**Mr Low:** I think we know what you mean. The minimum guarantee in terms of volumes of those that would be on the system was part of the request for proposals so that those who were bidding would have a sense, after the second year, of what it would be. That total, based on different combinations of the four different classes, was 650 participants.

**Mr Kormos:** So the JEMTEC contract will have a minimum of 650 participants. How many ankle bracelets are in existence in Ontario right now that are lawful, of course, and within the control of corrections, the Ministry of Public Safety and Security?

**Mr Low:** I don't have that information. All that I would be able to report on is the number of ankle bracelets that are in fact being utilized at this point as part of our contract. Part of the expectation—and contractually—is that as we identify offenders who will enter the program, the technology will be available. How many are here, I could not tell you at this point.

**Mr Kormos:** Is the JEMTEC operation up and running?

**Mr Low:** Yes.

**Mr Kormos:** It has an expectation of 650 after two years. How many ankle bracelets are currently in active use?

**Mr Low:** In this past week, we have ranged to a number of approximately 55 or so. It has fluctuated up and down, depending on how many individuals are actively enrolled in the program.

**Mr Kormos:** Who is running the ankle bracelets out of—where were we, Mr Levac?—Mimico?

**Mr Low:** As part of the electronic surveillance program, the offenders who are now part of that program—unless you've been there since January 15, it wouldn't have been part of the electronic surveillance program as we're currently contracted—

**Mr Kormos:** It was the preliminary to it?

**Mr Low:** That's correct. The decision on who would be enrolled in the program is that of the superintendent of that facility. Once that decision has been made and the necessary arrangements have been made with the electronic surveillance officers, who are our staff, the communication would be made to the vendor, to the service provider of the equipment, and that technology would then be installed on the individual.

**Mr Kormos:** You talked about three types of technologies: one is radio frequency; one is GPS, which is able to pinpoint where somebody is anywhere on the planet presumably; and voice recognition. Is JEMTEC utilizing all three of these technologies?

**Mr Low:** Yes, in fact we've identified with the voice verification system—it actually is in two parts. One is where the initiation of a call would be by the ministry and the other is the initiation of a call would be by the individual offender back to the system. So there are various levels of—

**Mr Kormos:** That's not an ankle bracelet.

**Mr Low:** No, no. That's what we would call the difference between class C and D of the technology and they're both—

**Mr Kormos:** That's answering the phone when you're supposed to be there to answer the phone and the technology confirming that indeed it's me, serving my sentence, that's answering the phone.

**Mr Low:** That's correct.

**Mr Kormos:** And the ankle bracelet?

**Mr Low:** That's a radio frequency that involves both, as you might imagine, an ankle bracelet and a device that, if you go out of range, there is an alarm that—

**Mr Kormos:** Out of range of what?

**Mr Low:** If you're on house arrest and are in the home, you would be expected to stay in the home. There is a radius from the equipment—

**Mr Kormos:** How is that monitored? Is there a device installed in the home as well as on the person's ankle?

**Mr Low:** Yes, there is.

**Mr Kormos:** Is the monitoring continuous, 100%, or is it spot monitoring?

**Mr Low:** The monitoring is 24/7.

**Mr Kormos:** You talked about conditional sentences where a judge utilizing the provisions of the Criminal Code effectively gives somebody house arrest. How many of the 650 ankle bracelets are going to be used for conditional sentencing?

**Mr Low:** I'll certainly allow my colleague Michael Simpson to deal with the program aspect, but contractually, the intent of the program and the way it was introduced were as an enhancement to community



supervision. That's what we have attempted to do. So it will be primarily for those who are on conditional sentences for community supervision. Because we had a program that, as you said, was the precursor to this through electronic monitoring, we had identified and will continue to transfer that program into this as well. That program started in approximately 1996. There have been up to approximately 100 offenders involved in that program, and that has been transferred in. Our intent is to continue that. The presentation for additional resources and the work that we have done in expanding this are in the belief that this enhances the community supervision for offenders.

**Mr Kormos:** Last week you told us that electronic surveillance could be used to ensure that people participate in programs they are required to participate in. That struck me as strange, because it seems to me that you could do that by having the people running the program take attendance. How is the electronic surveillance program of any assistance in ensuring that people participate in programs?

**Mr Simpson:** Keep in mind that all these electronic surveillance tools are designed to assist in determining an offender's compliance with various conditions. Those conditions may vary from a curfew to having a geographic limitation to them, those kinds of things.

**Mr Kormos:** But specifically on participating in programs, how does an ankle bracelet facilitate ensuring that a person participates in a program when indeed you take attendance when a person attends the AA meeting, the anger management counselling etc? How does electronic surveillance facilitate ensuring people's participation in programs?

**Mr Simpson:** It gives another source of information to probation staff about the offender and his or her whereabouts.

**Mr Kormos:** As it applies to programs.

**Mr Simpson:** As it applies to programs or any other conditions.

**Mr Kormos:** Give me a "for example," please.

**Mr Simpson:** If an individual, as you suggest, is supposed to be at an AA program on a certain night of the week and that location is logged in, then we can track whether that person is at that location. Whether that person is actively participating in that program is a judgment call by the facilitators of that program.

**Mr Kormos:** Why wouldn't you use attendance records to achieve that goal?

**Mr Simpson:** We do use that tool. As I mentioned, this is an additional tool to assist us in ensuring compliance.

**The Vice-Chair:** Thank you. The government caucus?

**Mr Gill:** In terms of the tracking system, the programs or devices, are we using the latest technology we know of in the world or North America?

**Mr Low:** Certainly the requirement for the electronic surveillance program is to provide what we would call state-of-the-art technology. But beyond that, recognizing

that the field of this technology is advancing at such a rapid pace, we also have provisions within the contractual agreement that the equipment is refreshed or that it is changed over to take advantage of any new technology or the latest in monitoring devices of that particular style of technology—for instance, radio frequency, if that would be it—as time goes on through the term of the contract.

**Mr Gill:** Whether it's 10,000 or 11,500 or 5,900 offenders, how does it compare with other provinces or states, however you want to call it? Any idea, per capita? How does that compare?

**Mr Low:** I'm sorry. I'm not sure if your question relates to the outstanding warrants or—

**Mr Gill:** Outstanding warrants.

**Mr Low:** I'll pass that over to my colleagues.

**Mr Simpson:** I don't have the information to do that kind of comparison.

**Mr Gill:** I'm just trying to see how we compare—whether we are good and we've got a handle on it, or we are so far out that we have no control. I just wanted to know whether we had any handle on that. I guess we don't.

**Mr Simpson:** I don't have information that compares us to other provinces.

1410

**The Vice-Chair:** Mr McDonald.

**Mr McDonald:** I want to go to the probation and parole service delivery model for a minute. I have some questions around that delivery model. Can you tell me what the goals or objectives of this delivery model are?

**Mr Simpson:** The primary objective of the service delivery model is to help us in terms of our mandate for public safety and reducing recidivism. It supports the government's commitment to making Ontario safer. It reflects our ministry's vision for an effective and efficient justice system. It incorporates what works in terms of drawing from research and empirical literature on effective correctional interventions. It allows us to promote and use the very best practices in terms of offender assessment, supervision and programming. It allows us to make good use of a probation officer's time in terms of having him or her focus on the most intensive cases. It supports and encourages the use of partnerships with other criminal justice partners. And it helps us in terms of promoting a learning organization by our investment in training in order to achieve organizational excellence.

**Mr McDonald:** What are the ministry's expected outcomes of this delivery model?

**Mr Simpson:** We're looking at a reduction in the number of offenders who reoffend and subsequently re-enter the correctional system. We're looking at monitoring our cost efficiency. We're certainly interested in developing streamlined approaches to serving our communities and to better process the number of offenders we serve. We want to make full use of our probation officers' talents. We have a very skilled and professional group of staff who work with us, and we want to design a system that allows them to use those talents to focus on

those individuals who are at highest risk and who need the intensive intervention our probation staff can provide.

**Mr McDonald:** Can you tell me the status of this whole project?

**Mr Simpson:** Yes. We have been implementing this for some time now, and we continue to implement it. We have it rolled out in terms of our staff being trained, with the exception of some new staff who have been hired. We have it rolled out in most of our offices across the province, and we're continuing to develop it across the province. In those offices where it's operating, we have some offices where all aspects of the program are there and operational, and we have other offices that are still developing it, still integrating it into their day-to-day practice, particularly moving into the area of offering rehabilitation groups.

**Mr McDonald:** Chair, we'll be happy to waive the rest of our time.

**The Vice-Chair:** Thank you. We'll move to the Liberal caucus.

**Mr Levac:** I want to take up that theme we were on, so we can move back, Mr Simpson. Are you aware that a lot of staff were concerned about not using their professional skills because they were doing an awful lot of data entry in the OTIS?

**Mr Simpson:** I am aware that that concern has been raised, yes.

**Mr Levac:** To alleviate that concern about their not using themselves—because I'm very concerned. I appreciate very much what you're saying about the fact that you have staff who are trained professionals who actually should be doing more monitoring of the people they're supposed to be taking care of, particularly level 1, and their concern, raised to me and several other people on occasion—and I think, John, you had acknowledged that there was a concern, rightfully so; did I hear that? I just want to make sure. I don't want to put words in your mouth, but had you indicated that there were concerns raised?

**Mr Rabeau:** Yes, in my opening remarks, Mr Levac, I identified OTIS as being somewhat difficult when we first implemented it. It really is a change in practice, automating a lot of work that was previously done manually.

**Mr Levac:** By hand.

**Mr Rabeau:** By hand. It has had some difficulties, as we've been developing it.

**Mr Levac:** Either one can answer this: I understand you're feeling that you're getting a handle on that, and that you are arresting some of those concerns that staff have regarding OTIS?

**Mr Simpson:** Most certainly we are. We have gone out with significant OTIS training to staff. We have strengthened the help desk in terms of dealing with OTIS problems. Shortly, we're going to be rolling out a set of OTIS enhancements. Those enhancements were developed as a result of input directly from staff last spring. We pulled together a team of staff representing all aspects of the organization. They came forward with

some recommendations for improving OTIS. We've been looking at ways to bring those on line, working with OTIS. We made some changes and we're about to roll out other significant changes very shortly.

**Mr Levac:** And staff is aware of those?

**Mr Simpson:** Yes, they're aware that they're coming.

**Mr Levac:** Good. The reason I say "good" is that I also heard, if I'm not mistaken, Mr Cook say that there was going to be a tie-in—I'm not sure if it was Mr Cook or yourself—between CPIC and OTIS. Are you looking at that?

**Mr Simpson:** Yes. That's very preliminary in terms of our discussions. What we're exploring is, are there ways that we can make sure CPIC has the information it needs, and do it with less staff labour? For example, if we can download information electronically, it saves folks on both sides, policing services and our own, from having to manually input that information.

**Mr Levac:** If I'm hearing this right, that would include, then, my suggestion that we start taking a look at levels 1, 2 and 3 and the different delineations so the auditor can make a distinction between the two. Is that a possibility?

**Mr Simpson:** Certainly we can take a look at that, yes.

**Mr Levac:** I did some searching at lunchtime and found the history of this particular committee to be one of the earliest, if not the first, committees in existence, and it was supposedly designed to be apolitical, to basically say, "Look, we're trying to find best practices here and improve systems so that when we find flaws, we can collectively work together to try to pull them up and make that system as it is designed to be, its best possible function."

My next couple of questions are not based on anything other than to try to see if we can get to the bottom of a question that seems to be percolating still, and that is the 10,000.

The question was asked by Mr Kormos about you being aware. I didn't know if anyone else wanted to answer that question, but I think I would rather be specific. Is any member here today, any political staff, including the minister, aware of conversations pointing to the use of CPIC to gather numbers of outstanding warrants, versus what you have indicated to us, which was a hunch that CPIC would have been able to provide an answer to your original observation of, "Boy, a problem has been pointed out here and we'd better get a handle on it"?

**Mr Simpson:** It was not a hunch; it came out of following up on what the auditor had recommended, which was to enhance the working relationship between police services and ourselves. As we began to do that work, we brainstormed about a number of possible solutions that we could bring to bear to deal with this problem.

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**Mr Levac:** So it was the police service sector of the Ministry of Public Safety and Security that approached



you and said, "We could probably get that information for you through CPIC"?"

**Mr Simpson:** No. I requested the meeting, and again, it was to explore ways that we could respond to the auditor's concern and find better ways of working together.

**Mr Levac:** You've indicated through the first answer that you were not aware of any staff member talking to you or pointing you in that direction. I would ask the other three or four to nod their heads one way or the other, if anyone has done that as well.

**Mr Rabeau:** I was the acting deputy from the end of July forward. I absolutely had no political interference in this issue whatsoever. It wasn't until much later that I even had the discussion with the minister and/or his staff about this. I know in talking to my predecessor, the issue that he had was the same one that Deborah referred to, which was more the methodology with getting the number and the fact that the warrants are not warrants that we have control over. They are a police responsibility. So there was absolutely no political interference at all.

**Mr Levac:** You can understand some people's concern as a result of an eight-month delay in going to CPIC in responding to the auditor's concern. The auditor brought the concern in his report and eight months go by and then all of a sudden somebody realizes, "If I want to address the auditor's concern, maybe I should go to CPIC."

**Mr Rabeau:** I tried to indicate earlier, Mr Levac, that the issue wasn't around the number.

**Mr Levac:** It was the concern that the auditor raised.

**Mr Rabeau:** It was the concern the auditor raised, and the auditor raised the concern that, first of all, we didn't know the number. I would argue that because warrants don't fall within our ambit, one questions the fact of, why should we know the number? However, I think the issue the auditor raised, which is the one we were concerned about, was his suggestion that we improve our communication with the police community across the province. It was in an attempt to begin to deal with that issue that we started to talk to policing services.

You have to remember that when the audit was done, we were two separate ministries. We gathered together after the audit was over. So there's some organizational approach to this that wasn't perhaps as easy when we were separate organizations.

**Mr Levac:** I can appreciate that. I'm basically just trying to put that one to bed so that we can move on and talk about what I said I found out at lunchtime, and that is, let's find out what the heck is going on and make sure that we make improvements from that point on.

I quote from the auditor's report: "...the ministry, in 1999, initiated a new offender management model known as the probation and parole service delivery model ... correctional needs that should be addressed to effectively reduce the risk of offenders reoffending"—so it's the recidivism that was the focus—"...management has

indicated that such major change in service delivery would take three to five years...."

In April 2002 we were three years into the process and 80% of the probation and parole offices were in the process of implementing the new model; 39 had achieved full implementation. As of today, how many of the 110 probation and parole offices have fully implemented the new model?

**Mr Simpson:** I don't have that update at the moment.

**Mr Levac:** I would seek to have that, Mr Chairman, please.

Are you on schedule for the five-year limit that you put on yourself?

**Mr Simpson:** I believe we are, yes.

**Mr Levac:** The hope is that at the end of the fifth year the implementation would take place and take care of the concern that was raised and that the ministry has indicated it wants to solve, and that is the workload of the probation and parole officers according to designation, versus the total number of people. It puts to rest, probably—mutes, shall I say—the reliance on the national average of the caseload and all that. So it changes it. Have you implemented or designed an implementation of a new way of looking at workload that goes along with that model?

**Mr Simpson:** With the implementation of the service delivery model and with bringing on OTIS, we've had to go back and take another look at that. We have been developing a new workload index tool, and I anticipate that it will be brought forward to me very shortly. This work, I'm told, is nearing completion and will be ready to roll out shortly.

**Mr Levac:** Can I assume that's in consultation with the people actually providing the service?

**Mr Simpson:** Absolutely. In fact, at the moment what we have done is set up a subcommittee of our employee relations committee made up of a cross-section of staff—probation officers as well as support staff, secretarial support—and managers, and they are looking at a number of possibilities for dealing with the issue of workload. A workload index is one piece of work that's being considered, but there are other things as well in terms of work processes and practices, things that the field identifies as they are working on things day to day. That report is expected by the end of March.

**Mr Levac:** Mr Chairman, there have been some references to two or three different reports that are due either at the end of March or soon. Is there a way that we can just leave it as a blanket request that we receive those?

**The Vice-Chair:** I'm advised that the clerk reviews the Hansard, and where requests for information are made or information offered, "we'll get for you," that's picked up and that information is made available.

**Mr Levac:** I'm assuming that those that would be sensitive as to contracts would not be given unless it was—I'm assuming that we can't just get information all the time, but what I'm asking for is, wherever possible—

**Mr Kormos:** We should.

**The Vice-Chair:** That's an interesting point, because the standing orders say that all people, things and papers are available to this committee. So there's very little—

**Mr Levac:** Well, then, I won't be so sensitive; I'll ask for it all.

**The Vice-Chair:** There's very little that should be withheld from the committee, but that's something that would be determined when the information comes forward.

**Mr Levac:** Having said that, I want to follow up on that. I would also request, if possible—I don't know if I'm allowed to do this, but I'm going to request it anyway. I'd like to find out exactly how the CPIC request was done: if it was in writing, how that process was done. I'd like a copy of the follow-up and also the information given back, because I'm curious about the statistical review of how that is delivered in the first place so that we can start to disseminate that to see whether or not we can address some of the auditor's concerns through that. So I would request, if it's possible, to get that as well.

Who bought the contract? Obviously the government did, but who ordered it? Was it a tender order for OTIS, or did somebody just look at it and say, "That's the one we want," the hardware?

**Mr Rabeau:** This is going back a few years. We put out an RFP looking for a provider for the system. There were a number of companies that bid on the business. The provider of OTIS is a BC company that was selected at the time.

**Mr Levac:** Thank you. Mr Patten will continue.

**Mr Patten:** Ms Newman, first of all I should ask, are the 165 parole and probation officers all in place?

**Ms Newman:** Yes, they are.

**Mr Patten:** They are now. So will this address the concerns the auditor had in terms of being able to serve, and parole and probation officers providing especially the supervision? I know that with your new model of operations there is a new job description, so the officers are now expected to supervise, build relationships with the police and the local agencies and all this kind of thing and actually do some field work. Many of them are saying, "Listen, we're really bound to our offices. While we would like to do that, there's no way we can, given the workload and the pressures." Do you see this as being fully addressed?

1430

**Ms Newman:** I think we've tried to address workload issues in a number of ways.

One measure is through the probation and parole service delivery model, to make sure that we're taking a strategic approach to workload management; that we're focusing our resources on those who pose the highest risk to reoffend or who pose the highest risk, I guess, in terms of public safety; that our probation officers are able to essentially manage their workload in accordance with risk levels. Instead of our old model, which had probation officers seeing all offenders on their caseload equitably, supervising them on an individual basis, we're now streaming them in accordance with risk. So it provides for a more strategic approach to caseload management.

The second measure was the hiring of an additional 165 probation officers. As I mentioned last Thursday, that had the effect of reducing the average caseload in the province from 107 before we hired the 165 staff to an average caseload of 85 after hiring. So it had a fairly substantial effect in terms of average caseload. Recognizing that caseloads do vary, that is an average. In northern communities, they tend to be lower than that; in urban areas like Toronto, they tend to be higher than that. So it does vary somewhat geographically.

Are we declaring victory on workload? No.

**Mr Patten:** No, I wouldn't expect that, believe me, but that will be helpful in one aspect.

However, my question is that your budget related to transfer payments was decreased by 13% in a context in which most of your transfer payment agencies or recipients were saying it is almost impossible to do the job with existing resources. So you now have, theoretically, more supervisors to build relationships with these transfer partners who have fewer resources. Somehow that doesn't really square. I can see strengthening the administrative part in the ministry, but if their function is to work with the deliverers out there, the agencies, but the agencies are then cut back, I find that a curious administrative management model. Is that where the money went? Did that 13% that was reduced from transfer partners go into hiring the parole and probation officers?

**Ms Newman:** I think probably you're referring to a constraint measure from several years ago. There was a reduction in terms of community contracts at that time. I think that was around 1996.

**Mr Patten:** Or 1997, something like that, yes.

**Ms Newman:** Or 1997, thereabouts. I think what we do is try to manage in a fiscally prudent way. We take the money we have available and try and maximize that funding to make best use of it and ensure that we're focusing our resources in the best way and in the right areas. Certainly we continue to value our partnerships with community agencies. They complement the service delivery that our probation officers provide.

**Mr Patten:** The auditor does not comment on policy; of course, I can, and some of these questions correctly should be asked of the minister. I know you have to sit there and answer these questions in a context that is not of your making, nor are the priorities of your making, necessarily, especially from my experience.

But I'd like to ask you this: we're talking about people and often we're talking about young people, even in the adult area. We're not talking about 50-, 60- or 70-year-olds, except in rare experiences. By and large, we're talking about young people. When we look at those, as we've already acknowledged, who come into the system with mental health difficulties and problems, and we look at the aboriginal populations, especially in the northern communities, which are way out of proportion to their demographics, and we look at the West Indian populations, which likewise are way out of proportion to their demographics, their proportion of the population—I recall that at one of the conferences of corrections, and I



think it was at the London School of Economics, one minister had said, "You might look at your corrections systems as a thermometer of your minorities, because they tend to be made up disproportionately of minority people."

How is that being addressed? There are kind of three minorities in a sense: people with mental illnesses who end up in corrections and shouldn't be there, aboriginal populations, and West Indian populations. Are there any special efforts made? I'm speaking specifically through community corrections.

**Ms Newman:** Yes, there are in fact efforts made to address and provide programming that's specific and sensitive to aboriginal populations and certainly to other groups, with particular sensitivity to their needs. So we have a number of arrangements with community agencies to provide aboriginal programming and we have 32 contracts with native community correctional workers who provide aboriginal-specific supervision and programming with respect to that population. We're allocating our contract dollars, I think, to ensure that we are meeting the needs of the diverse kind of population that we're serving in the province.

**The Vice-Chair:** Thank you, Mr Patten. Mr Kormos?

**Mr Kormos:** What was wrong with the auditor's methodology in determining the number of outstanding warrants?

**Ms Newman:** I think the concerns we had were simply that there wasn't a number that any of us could validate at that time. It was an estimate that was being made, a guesstimate.

**Mr Kormos:** It was an estimate. What was wrong with the methodology to arrive at an estimate? You still don't have a count.

**Ms Newman:** We have a count now through CPIC.

**Mr Kormos:** No, no. We were told earlier that somebody's counting every single one of these—right?—and we're still in the process. What was wrong with his methodology to arrive at an estimate?

**Ms Newman:** Simply that it was an estimate. It wasn't a validated number, and the only way that we feel we're going to be able to get that is to do this very labour-intensive manual count and reconciliation across the system.

**Mr Kormos:** Of course.

**Ms Newman:** What we were trying to point out at the time was that simply extrapolating on the basis of five offices right across the province and making assumptions that every office is identical—that its population is identical, that the composition of the population is identical—may not be the case.

**Mr Kormos:** But the auditor surely adjusted for population, didn't he?

**Ms Newman:** I don't recall the ins and outs of all of that discussion. I think we expressed concern that there was no way of knowing what the number actually was, that what we were accepting was the issue and that we needed to work on that issue with policing services, although we had some considerable discussion about the

fact that this was a correctional services audit and that we didn't have jurisdiction over this issue.

**Mr Kormos:** You had jurisdiction over the number of warrants that your people—probation officers, parole officers—obtained, didn't you?

**Ms Newman:** That's right.

**Mr Kormos:** And you still do.

**Ms Newman:** Yes, our probation officers exercise discretion in laying a charge of breach of probation.

**Mr Kormos:** And it's of some distinct and valid interest for the ministry of corrections, if you will, to know that once it has obtained a warrant, something is being done with that warrant, isn't it?

**Ms Newman:** That then becomes a police responsibility.

**Mr Kormos:** But it's of extreme interest and value to the ministry of corrections to know what happens to the warrants that your probation and parole officers obtain, isn't it?

**Ms Newman:** It's of interest to us, yes. It's not our responsibility, nor our jurisdiction.

**Mr Kormos:** I understand that, but it's of valid interest for the ministry of corrections to know what happens to the warrants that your probation and parole officers obtain.

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**Ms Newman:** I'd accept that.

**Mr Kormos:** Mr Peters never characterized his numbers as anything other than an estimate, did he?

**Ms Newman:** No.

**Mr Kormos:** He made that quite clear from the get-go.

**Ms Newman:** That's correct.

**Mr Kormos:** And has never changed his position in that regard.

**Ms Newman:** No.

**Mr Kormos:** And his estimate was based on hard, accurate counts of warrants obtained in five regional areas.

**Ms Newman:** That's correct.

**Mr Kormos:** There's nothing wrong with that data, is there?

**Ms Newman:** No. Well—

**Mr Kormos:** I'm sorry?

**Ms Newman:** I should just qualify that the other part of the discussion we had was that absolutely there's nothing wrong with that data; it was based on an actual count in five offices—

**Mr Kormos:** There's no question as to its accuracy.

**Ms Newman:** No. What we don't know is, of those offenders where warrants are issued—essentially, then, they would be entered into CPIC, presumably. That's the policy, that they would be entered into CPIC; that's the process that's followed by police services.

**Mr Kormos:** If the police services get the warrant.

**Ms Newman:** We believe that police services get the warrant. That's the process.

**Mr Kormos:** You were here earlier, and I'm not aware, still, of any protocol, any policy, that dictates how

warrants, once obtained by a probation or parole officer, are then put into the hands of the police.

**Ms Newman:** We will provide that information.

**Mr Kormos:** All right. So no dispute with the accuracy of his counts. Were you aware of which five regions it was that he did the counts in?

**Ms Newman:** Yes.

**Mr Kormos:** Was it big city and not-so-big city?

**Ms Newman:** I'm not recalling which five offices it was, now.

**Mr Kormos:** Was it fairly representative of the province of Ontario, as your recollection would tell you?

**Ms Newman:** I don't recall that.

**Mr Kormos:** Did you question the representativeness of the five regions at the time Peters put forward his estimate?

**Ms Newman:** I'd have to go back and look at which five offices it was. I think there was reason to question whether in fact one could simply extrapolate, as I indicated earlier.

**Mr Kormos:** Sure. But short of a hard count, which is what the ministry is doing now, is there any better way than what Mr Peters did to arrive at some sense or some estimate of the numbers?

**Ms Newman:** The deputy would like to respond to that.

**Mr Kormos:** OK. You first, though. Is there any better way, short of a hard count?

**Mr Rabeau:** I think maybe just a couple of points of clarification. One is that it wasn't regions; it was offices that were looked at. Secondly, what was counted was files, not necessarily outstanding warrants. The dilemma we have here is that obviously there's a file that indicates there is a warrant in a backroom of an office. Some of those warrants in fact could have been executed and the filing not done. In other words, the file is still there and the warrant is already done and has been disposed of.

**Mr Kormos:** Absolutely.

**Mr Rabeau:** I think the issue that was raised by the auditor talked to files and not necessarily warrants. So in response to one of your questions in terms of the methodology, I think that was one of the concerns that was raised at the time, it's my understanding. However, at the end of the day, as I think we've tried to indicate, the issue was not necessarily around the number, but around the problem, and we recognized the problem. Even if there are files where the warrant has been executed and we're not aware of that, obviously that's of some concern to us.

**The Vice-Chair:** Excuse me. The auditor would like to make a clarification.

**Mr Peters:** Yes, if I may. Thank you, Chair. Sorry, John, it was warrants that we counted, not just files. We visited five of the 41 area offices. So it was warrants, not just files.

**Mr Rabeau:** I know that, Erik. There were warrants in our files. It doesn't mean that the warrant hadn't been executed, however. In other words—

**Mr Peters:** That's correct.

**Mr Rabeau:** That's the point I was making. Obviously it's a piece of paper that's a warrant that was in a

file. We recognize that. But the warrant may have been executed.

**Mr Kormos:** Similarly, I might ask Mr Peters, were there instances of files in which you observed that a warrant had been obtained and indeed executed, such that you didn't count that warrant as an outstanding warrant?

**Mr Peters:** This is Rudy Chiu, from my office.

**Mr Rudolph Chiu:** When the warrant is executed, the file will be removed, from the outstanding file anyway.

**Mr Kormos:** Unless of course there is an error made in removing the file, correct?

**Mr Chiu:** That I can't speak to.

**Mr Kormos:** Of course, but the same sort of human error that might flow from not delivering a warrant to the police or the police not filing the warrant with CPIC.

There was never any doubt that Mr Peters provided an estimate. Do you have a better way of arriving at a mere estimate than what Mr Peters did? We know that if we want an exact number, we do a hard count, correct? That's what you're doing now. It has taken a whole long time. Mr Peters, I presume, had neither the staff nor the time to count every file in the province. Is there a better way for Mr Peters to have arrived at an estimate than the manner in which he did?

**Mr Simpson:** Mr Kormos, what we are doing is physically going through and checking them, and that involves working closely with the police services and on occasion with local crowns to do that. That is the process that is undertaken. So it's more than just going through and counting warrants in a file.

**Mr Kormos:** Of course it is. Was there anything about Mr Peters's report, as an estimate, that was indeed *prima facie* inaccurate, in view of the fact that it was characterized as an estimate—nothing more, nothing less?

**Ms Newman:** No, it was characterized as an estimate. I'm not sure what you're asking me.

**Mr Kormos:** Would you characterize it as inaccurate in terms of it being an estimate?

**Ms Newman:** We expressed that we had concerns about the methodology. In the absence of any better way at the time of determining what the exact number was, short of going through a process which we're now going through, which will take a number of months and is extremely time-intensive for our staff, there wasn't any better way, no, of determining what that was short of any kind of an estimate. I think our concern was more around dealing with the issue than the number.

**Mr Kormos:** Of course, and you've made that quite clear. You've said the issue wasn't around the numbers. You said that just a few minutes ago, and I believe you. And I believe you speak for all your colleagues. You just repeated it.

Once again, Mr Peters came up with an estimate. He described the manner in which he arrived at the estimate, because a guess would be to say, "Well, I don't know. There's probably got to be a few thousand outstanding warrants." That would be a guess, huh? Is that right? If a person like me said, "Oh, I bet you there's got to be more than a few outstanding warrants," that would be a guess,



wouldn't it? An estimate is based on some process by which you go from point A to point B. As an estimate, that's not inaccurate, is it?

**Ms Newman:** It's an estimate.

**Mr Kormos:** Is it inaccurate as an estimate?

**Ms Newman:** I have no idea. I think we'll find out when we complete the manual check and then we'll be able to compare it.

**Mr Kormos:** So there's no way of determining its accuracy as an estimate until you do your count, isn't that correct?

**Ms Newman:** The best method we had short of that was using CPIC, in the end.

**Mr Kormos:** There's no way to determine the accuracy or inaccuracy of Mr Peters's estimate until you finish your actual count, is there?

**Ms Newman:** I'd say that's the best way of determining it, yes.

**Mr Kormos:** Similarly, was Mr Peters's estimate misleading? Was it misleading in any way in view of the fact that he laid out all of the foundation for arriving at that estimate? He didn't conceal, so far as you're aware, any of the approach that he used, did he?

**Ms Newman:** We talked about how the estimate was obtained; that's correct.

**Mr Kormos:** Did he appear candid in that regard or did he appear to be concealing things?

**Ms Newman:** There's never been any question whatsoever about the credibility or the—I would never suggest that the auditor was anything less than completely open and forthcoming.

**Mr Kormos:** God bless both of you. How could one possibly reach the conclusion that his estimate was misleading, then?

**Ms Newman:** We think that the number is lower. We had that discussion. When we've completed the manual count, we'll have the benefit of being able to determine what the real, actual number is.

**Mr Kormos:** Why, then, back on December 3, did the Minister of Public Safety and Security say that Mr Peters's report was "inaccurate and misleading"?

**Ms Newman:** I think the minister had the benefit—we all had the benefit—of the CPIC information that we hadn't previously had, in terms of having a different number, and what the minister was speaking to was the number that had been obtained through CPIC.

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**Mr Kormos:** Was the minister aware that you had embarked on a hard count or actual count of outstanding warrants in contrast to the information you received from CPIC at that point, December 3?

**Mr Simpson:** I'm not sure whether he was at that point. We were just getting going with that work, and I don't know if the minister's staff had been briefed on that initiative at that point.

**Mr Kormos:** Clearly at some point you made a decision to do a hard count of outstanding warrants, didn't you?

**Mr Simpson:** Yes.

**Mr Kormos:** That was as compared to or in contrast to relying on the CPIC data.

**Mr Simpson:** It is in addition to the CPIC data. We wanted to take a closer look at this issue.

**Mr Kormos:** And you wanted to determine the actual number based on a hard count rather than relying solely upon CPIC data. That's fair, isn't it?

**Mr Simpson:** More than just getting a number, we wanted to work with policing services, and where appropriate the crown, to clean up any outstanding warrants where they had already been dealt with but we hadn't been notified they had gone to court and been dealt with there. So it's more than just counting; it's actually taking a hard look at them and, if there are ways in which they've already been dealt with, getting them off our books.

**Mr Kormos:** It's axiomatic in the law that the courts impose the length of the sentences and the ministry determines where and how they shall be served. That's fair, isn't it?

**Mr Rabeau:** Yes, that's correct.

**Mr Kormos:** I understand there currently are temporary absence programs available to the ministry of corrections; for instance, for inmates to be released during the day or for a successive number of days, during the time they're serving their sentence.

**Mr Rabeau:** Correct.

**Mr Kormos:** I similarly read statistics that indicate that only 28% of parole applications were approved in the year 2000-01, the seventh consecutive year in which the approval rate dropped.

**Mr Rabeau:** Are you referring to—

**Mr Kormos:** Parole.

**Mr Rabeau:** We aren't really prepared to deal with parole today.

**Mr Kormos:** Fair enough; we'll put that aside. I just wanted to throw that into the hopper because I'm interested in the types of inmates who are going to be released with ankle bracelets compared to those who have been released on TAPs, for instance, without ankle bracelets. Why would you put an ankle bracelet on one and not on another?

**Mr Low:** You're referring to the inmate portion, which is a program that has been in place in our institutions for some time. The determination of the superintendent, based on an application of the inmate, is based on a risk assessment. It is basically a determination of whether it would be an enhancement to the level of supervision that would enable them to meet the conditions of the TAP they establish.

**Mr Kormos:** So if I have to wear an ankle bracelet and Mr Patten doesn't, that implies that I'm a higher risk than Mr Patten?

**Mr Low:** I'd hate to compare the two—

**Mr Kormos:** I can live with it.

**Mr Patten:** Yes, you would be.

**Mr Low:** —but that would allow a higher level of supervision to exist.

**Mr Kormos:** And you would want a higher level of supervision on an inmate who is a higher risk.

**Mr Low:** If you were going to determine there should be a release at all.

**Mr Kormos:** Quite right. Will inmates continue to be released on TAPs and other release programs without ankle bracelets?

**Mr Low:** Yes, I expect they will be.

**Mr Kormos:** Again, the ones who will not have surveillance will be lower-risk inmates; is that correct?

**Mr Low:** Without the electronic surveillance?

**Mr Kormos:** Yes.

**Mr Low:** Yes.

**Mr Kormos:** Why would we want to release inmates who have a measurable element of risk such that they need an ankle bracelet? Why would we want them outside the institution rather than serving their sentences inside?

**Mr Low:** Again, it may be that we're looking at programs they would be involved in. It may be there are opportunities for them to be involved in work placements or re-entry into the community and those types of things. There are a variety of purposes, as I think was actually explained when we talked about adult institutions last week.

**Mr Kormos:** OK.

We've had ankle bracelets for how long now in the province of Ontario? I remember the minister's announcement.

**Mr Low:** Since approximately 1996.

**Mr Kormos:** Prior to the involvement of JEMTEC—that contract dates from when?

**Mr Low:** Which contract are you referring to?

**Mr Kormos:** The newest contract, the newest agreement with JEMTEC.

**Mr Low:** The term began on January 15. The contract was actually signed in the fall.

**Mr Kormos:** January 2003?

**Mr Low:** That's correct.

**Mr Kormos:** Up until January 2003, how many ankle bracelets did we have in the province administered by the ministry of corrections or owned by them?

**Mr Low:** Very generally, in the neighbourhood of approximately 100 at any given time.

**Mr Kormos:** Of those 100 ankle bracelets, how many of them were being used for people who were supposed to be serving weekend sentences or intermittent sentences?

**Mr Rabeau:** I think around 60, if I'm not mistaken.

**Mr Kormos:** Of the other 40, what types of inmates were they being used with?

**Mr Rabeau:** Folks who were out on TAP who would be out during the week to go to school; regular inmates with regular sentences, not weekend sentences.

**Mr Kormos:** So 60% of the ankle bracelets were used to deal with intermittent sentences, colloquially called weekenders?

**Mr Rabeau:** Right.

**Mr Kormos:** And 40% were used with people to go to school. Were those GPS bracelets?

**Mr Low:** No, the only equipment that was used during that time and the only equipment we had available to us was radio frequency.

**Mr Kormos:** That radio frequency required a stationary corresponding unit in the location where the inmate was supposed to be?

**Mr Low:** That's correct.

**Mr Kormos:** Which schools had these corresponding units?

**Mr Low:** That would depend on the supervision. In fact, it's inmate-specific, and in most instances it would be so that they would stay at home or be in their program. As you said, there are a variety of ways to provide supervision, one of which would be an attendance record.

**Mr Kormos:** But your colleague said it was about going to school—TAP to go to school during the week. I'm interested in which schools had the corresponding transmitter-receiver that would facilitate the monitoring of these 40% wearing ankle bracelets, some of whom we're told were using them to go to school during the week.

**Mr Rabeau:** I think there's been some misunderstanding. The bracelet was on the individual. The equipment would be in the individual's home.

**Mr Kormos:** But you talked about going to school.

**Mr Rabeau:** Yes, but the bracelet would not be monitoring the individual at school. The bracelet is monitoring the individual's attendance in their residence. So if they are to be home between 6 at night and 6 in the morning, that's what the bracelet allows us to measure. There isn't attendant equipment in a school or a place of work.

**Mr Kormos:** I misunderstood. My apologies.

**Mr Rabeau:** I think that what might have occurred earlier is, with the new technology, the global positioning technology, we will be able—we haven't got it working yet at the moment, but it's coming—to track individuals wherever they are in the community. The bracelets are attached to a piece of equipment that's in the individual's home.

**Mr Kormos:** So the people you're talking about, of the 100, 60% of them—the total number of 60 being intermittent sentences, the other 40 being other programs—these are people who can't be trusted outside of the institution without an ankle bracelet and surveillance. Correct?

**Mr Rabeau:** First of all, intermittent sentences are out every day of the week except the weekend, so I think they are trusted outside the institution.

**Mr Kormos:** I was talking about the other 40%.

**Mr Rabeau:** Do you want to run that by me again, then?

**Mr Kormos:** Yes. Of the 100 bracelets now, 60% are intermittent, where a judge expected them to serve a sentence intermittently. The judge didn't order them to be under house arrest intermittently. The judge said, "I want you to serve weekends to do your 14 days for your drunk driving." Is a second offence 30 days? Thirty days for drunk driving—a third offence, rather. It might be more.

**The Vice-Chair:** You need to get to the question.



**Mr Kormos:** Yes, I understand. So the other 40% are people who can't be trusted without the ankle bracelet because they are too high-risk. Right?

**Mr Rabeau:** They've been judged that there is some risk, yes. You want them to attend wherever you want them to attend, and that would be at home.

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**Vice-Chair:** The government caucus, any questions?

**Mr McDonald:** Chair, we have no further questions.

**The Vice-Chair:** The Liberal caucus?

**Mr Levac:** Yes, just a few for me, and Mr Patten may have one or two.

I find this exercise profoundly important, and to get a grasp of the entire picture I want to follow up on some other points that were made earlier. We talked about OTIS and you indicated to me that inside OTIS its design is evolving somewhat and that you're in that five-year time period in which you are changing the system. So you actually opted out of the present system that we're using at the time to correspond with or be a partner to—if I've got this right—the integrated justice project.

**Mr Rabeau:** Yes. The OTIS program is part of the integrated justice endeavour, yes.

**Mr Levac:** Right. And you had indicated earlier that the changes you are now implementing, because of the difficulties that some of the people were having applying it and doing the database and improvements, are supposed to make it better management in terms of case managing?

**Mr Rabeau:** That's correct.

**Mr Levac:** The auditor has somewhat of a concern with that—unless this is what you're now working on in between that time. Because as you know, the auditor's report was a little earlier than what we've been talking about. So I want to make sure this is the point.

"The design of the new system does not allow officers to easily and readily assess an offender's history and the types of offences committed (because the information is not captured and displayed on one screen but is instead stored and arranged among several different screens). As a result, there is an increased risk that critical information is missed when officers are reviewing information concerning offenders under their supervision."

Can I assume, then, that the new evolution you're talking about is addressing that very issue?

**Mr Simpson:** Yes, we're working on that issue along with a whole number of other issues. The thing about OTIS is that as we get in and get using it, we discover ways that we want to improve it. So in my view it's an evolving piece of technology and it will continue to change and evolve as our demands change and how we use it changes.

**Mr Levac:** Is that including the frequent crashes that the auditor is concerned about because it's Internet-based?

**Mr Simpson:** Yes, we've taken steps to address that issue and to decrease the frequency of that.

**Mr Levac:** Some of the information that I obtained from some probation and parole officers is that it almost doubles their work because they're afraid of the crash

and they don't have written notes, they're just transferring them on to the database entry, and you turn around and you find out your case has crashed. So I'm assuming that's what that means, that you're going to prevent that duplication of work, and the proper use of those professionals.

**Mr Simpson:** Yes, that issue was raised by probation officers and observed as an issue, and it's one of the issues that's being dealt with.

**Mr Levac:** Great. I will ask the next question, then. In the contract you have with the providers of OTIS, are they implementing some of these changes at a cost, or is it part of the contract that the upgrades are built into the contract?

**Mr Simpson:** It's my understanding that some of these changes are part of the present contract and then some of the other changes that we've asked for fall outside of that contract, and there is an additional cost for those changes.

**Mr Levac:** And that'll include, if I'm hearing correctly, the potential that you're looking into—I hate like heck to put words into people's mouths, so I'm leaving it as open as possible—the possibility of your negotiation with CPIC.

**Mr Simpson:** I'm not sure about that yet. I have to take a look at it.

**Mr Levac:** So that's really at the preliminary stage in terms of your discussion with CPIC and OTIS.

**Mr Simpson:** Absolutely.

**Mr Levac:** Having said that, may I suggest, then, an evaluation of OTIS with that implemented into it, because if we can address—the auditor's concern was not being able to identify levels 1, 2, 3 within one system, and right now, from what I understand this to be, you have to go to a second or even a third source to get that information.

**Mr Simpson:** Your worthwhile suggestion may be a little premature in that we're not sure yet whether we can actually do this. As I said before, we're just starting discussions on this to investigate it. But I think if we can work something out, by all means we will monitor it and see if it gives us the results that we're after.

**Mr Levac:** If it can't, then I'm assuming you're still going to look back to OTIS, because you are doing an evaluation now and making those upgrades, as you presently are aware, and as the auditor indicated—I believe he was saying there wasn't, at this particular time, unless that's been changed since his report, critical information being missed.

**Mr Simpson:** With OTIS, we have an OTIS users' group, which will continue to help us monitor the success of OTIS, help us to identify user-specific problems with it. Then over and above that we take a look at how OTIS is working overall, whether it's giving us the results that we need, whether it's able to give us the reports we need.

**Mr Rabeau:** Just a couple more points, Mr Levac. Prior to OTIS, with OMS, our offices were reliant on paper files to get information from one office to another. We now have a system where offices can access information on-line about an offender, even if an offender

shows up at another office. So access to information is much more readily available and is one of the real selling points for OTIS. Certainly, there still are issues in terms of how you run through the different screens in accessing information, to pick up on the point the Provincial Auditor was making. We're really trying to rectify the ease of access into the system.

The second point I'd like to make is that when we get down the road a bit, the intent of the integrated justice system was to allow easy access between corrections, the police and the courts. So one would hope that as that system becomes available, the issue of CPIC itself may not be all that relevant in that we'll have a much better way of sharing information between corrections and the policing community generally and hence have control of the issue that you're referring to.

**Mr Levac:** I appreciate that. That observation basically speaks to my overall concern, that it's a communication issue, a morale issue, and asking your professionals to perform at such a level. Regardless of the new system or the old system, you're asking people to perform at a certain level of competency, which I would suggest to you is there. I would never question that. I visited many, many probation and parole offices with very dedicated people. I concur with what Michael said about that. But—and I say this guardedly—if they don't have confidence in that system, if they don't have confidence and their morale is low because of that communication problem, not using their professional skills to their utmost, and they simply see themselves—and you already acknowledged this as a concern that you have—as database enterers instead of probation and parole officers, that destroys any credibility that you're trying to work toward. So along with what you've described for me, I would suggest and recommend strongly that they be brought right along. If they're not part and parcel of that correcting part that's taking place—and I think the auditor has alluded to it; we need some work on this—then you know how management is. Human resources don't respond to anything other than being invited to be part of the solution, versus part of the problem, and not made to think they are part of the problem. That's the other issue that I find it's important to bring up.

Could anything have been done—I just want to go back to this collecting of data for a short moment. I'm not fixated on this one, but I do think it needs to be addressed. From the time at which the auditor indicated that we started with 11,500, modified to a low-end 10,000 to an upper end 11,500, to 5,900—let's not pick at the numbers, but I want to pick at the concern of what changes are taking place now. Because you indicated that through the manual review—in between that time, has anyone been communicated with to strictly find the types of outstanding warrants that you're designating, or I think I heard someone saying to clean up the file along with it? There may be a perception out there—and I want to say this guardedly—that “cleaning up the file” might necessarily be translated into, “Let's make sure those numbers are right where we think they are.” We're talking about

an actual snapshot of exactly what's happening from that moment to this moment, and that includes identifying the levels, which obviously Jeff indicated CPIC does not do.

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Lastly, just in terms of a picture of the outstanding warrants, which would be what Mr Kormos was referring to earlier, because I have a concern that the public may be under the impression that that's all of the outstanding warrants, we're talking about just what probation and parole has access to.

**Mr Kormos:** Provincial.

**Mr Levac:** Provincial. So could you address a couple of those issues?

**Mr Simpson:** Sure. I want to go back to my discussions with my counterpart in policing services. One of the things we decided to do was to send a reminder out to both the policing field and our staff and to request the co-operation of staff in first of all taking a look at the protocols that we have existing with police services and identifying if there are any needs in terms of updating those so that we've got a good, tight system in place in terms of following up on high-risk offenders in our community. That was done by both of us.

The next thing that was decided on was that I directed all of our offices to begin this task of going through and checking all of the warrants on both open and closed files—any existing warrants that the offices have—and approaching local police services to take a look at those, update them and find out what their present status is. We discovered things like someone may have moved completely out of the province, someone may have passed away or the matter may have been dealt with as part of another court matter. Sometimes that information doesn't get back to us. That process—and as was mentioned earlier, it is fairly labour-intensive—is ongoing.

Over and above that, I think what you're suggesting is, how then do we keep a better eye on this issue? One of the things that we can monitor more closely is the existence of outstanding warrants in active files, and through our police protocols, staff can work with police services around those. We can also, on a regular basis, take a look at outstanding warrants in closed files. It's my intent that this kind of review is done on a regular basis, at least annually.

The third part is that we have a case audit process. One of the things I have directed is that, as part of that case audit process, to be sure that this issue of warrants is included so that we don't have a situation where that's just sitting there idle; in other words, something is being done about it.

**Mr Levac:** That's part of the whole underlying confidence that the public has; not just simply the probation and parole officers but the challenge that has been laid before you by this government or any other government, and that is to make sure that our public is safe and secure. If they get that information and they know it's updated, it's regular, it's timely, that gives me a sense of confidence, and I'm sure it would do that.

I defer to Mr Patten.



**Mr Patten:** I'd just like some further information on the treatment centre in Brockville. I understand there were some negotiations between health and your ministry on who was footing the bill or operating the facility. What's the latest word on that?

**Mr Low:** Perhaps I can respond to that. The St Lawrence Valley Correctional and Treatment Centre is a correctional institution in the province, so the responsibility for the operation of the institution is with the Ministry of Public Safety and Security. Having said that, as part of our transformation we recognize that our core business is corrections and that in the provision of mental health programs we would like to have those with the expertise there. So we have had discussions with the Ministry of Health to assist us in the provision of additional mental health services, so that we can enhance what we have had in the past. We are currently in discussions with the Royal Ottawa Hospital in terms of our partnership, for the Royal Ottawa to provide the actual treatment services within the institution as part of the treatment program. Having said that, correctional institution security and ultimately public safety and security are the responsibility of this ministry.

**Mr Patten:** Are you referring to the Brockville facility, or are you talking about the ROH in Ottawa?

**Mr Low:** Actually, I'm talking about the Brockville site, which will be the St Lawrence Valley Correctional and Treatment Centre.

**Mr Patten:** And you have arrangements with the ROH?

**Mr Low:** Upon completion of a contract with them to provide the treatment services, they will actually staff the treatment services and be on site doing that within the correctional institution.

**Mr Patten:** At the present time, the ROH is laying off 70 staff, because they haven't received adequate funding from the Ministry of Health. I know they are waiting on the completion of this particular facility as well, because they now have a regional responsibility for all of eastern Ontario.

My final question to you, Deputy, is, you will recall Dr Rozanski, who was invited by the government to do a review of the funding formula for education and ended up recommending that indeed the high schools and elementary schools in our province were underfunded by \$1.6 billion and that should be rectified. Would you welcome Dr Rozanski to do a review of your ministry?

**Mr Rabeau:** Obviously there are days when we could benefit from further funding on some issues, but we are continuing to look at ways of doing this job in the best and most efficient way we can. I think our first responsibility is to make sure we're getting the best bang for what we're spending now, let alone expanding.

**Mr Patten:** That's right. You're short of resources, and I know you can't beat up your political masters; I appreciate that. However, these decisions are out of your hands. I have some experience, and I feel for the job you have. It's not an easy one, and it's a major challenge. But I do hope there is a recognition at some point about the potential of your relationships in the community, which I

think is far greater—and I think you probably know that too, perhaps beyond the scope of your resources—in contributing to helping people who are unhealthy or who need more support in one fashion or another to get back into some kind of productive and meaningful community life. Thank you very much for your answers.

**Mr Kormos:** Let's talk about the hiring of the new probation officers. I understand the caseload is, on average, 80 cases per probation/parole officer?

**Ms Newman:** The average is 85.

**Mr Kormos:** When we're talking about caseload, are we talking about probationers and parolees?

**Ms Newman:** Yes.

**Mr Kormos:** So that's 85 per probation/parole officer. What, then, is considered the number of hours a month a probation officer will spend preparing pre-sentence or pre-disposition reports?

**Ms Newman:** We haven't allocated, in terms of our standards, how much time probation officers should spend on preparation of reports for the courts or liaising with community agencies or supervising offenders. Essentially our probation officers are trained professionals, and we expect them to use their professional discretion in terms of managing their time and fulfilling their responsibilities.

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**Mr Kormos:** Sure. But preparing PSR/PDRs is a time-consuming effort, isn't it?

**Ms Newman:** Certainly it requires proper time and attention to complete. Definitely.

**Mr Kormos:** It could take two, three, four, even more days to prepare a complete PSR/PDR, can't it?

**Ms Newman:** I think preparation of a report for the court will vary. While some circumstances are quite straightforward, others are not. We don't have a measure of the average time it takes to prepare a report.

**Mr Kormos:** Of course. I wasn't saying average. I said it can take two, three or four days even to prepare a PSR/PDR. It means interviews with an employer, interviews with faculty at a high school or college. It means interviews with family. It means sometimes tracking down people who are hard to find. It means talking to people who sometimes are not inclined to want to be interviewed. It can be as long as four days in terms of preparation to the final word processing of a PSR/PDR, can't it?

**Ms Newman:** That's possible.

**Mr Kormos:** And then court time. A probation officer can be compelled and is more often than not accompanying his or her PSR/PDR to court. Is that true?

**Ms Newman:** On occasion they may attend court. Our model generally is that we have court liaison officers whose duty it is to be an officer to the court and to do that coordination.

**Mr Kormos:** I'm not talking about the intake. I'm talking about presenting the PDR/PSR, and it's not the rare case that the probation officer preparing that PDR/PSR is required to attend the court with that report, is it?

**Ms Newman:** That's not a requirement of the service, that every probation office must attend court with their report. The report is turned in to the court and it's read.

**Mr Kormos:** I understand, and if defence counsel wants to cross-examine the probation officer on the contents of that report, that probation officer is compelled to be there, isn't he or she?

**Ms Newman:** That happens on a very rare occasion.

**Mr Kormos:** When you're talking about 85 cases per probation/parole officer, you're not including then potential probationers, people for whom that parole officer/probation officer is preparing a PDR/PSR?

**Ms Newman:** No. When I'm talking about average caseload, I'm talking about active cases on the caseload and not necessarily the report preparation.

**Mr Kormos:** There seems to be, in all fairness to the ministry, a whole lot of response around the area, for instance, of the outstanding warrants. That message is loud and clear. There has been significant response around that area, hasn't there?

**Ms Newman:** Yes.

**Mr Kormos:** A whole lot of work being done around the area of outstanding warrants.

**Ms Newman:** That's correct.

**Mr Kormos:** Determining why they're outstanding, right? Determining the accurate numbers; putting into place ways and means of tracking them. And none of this activity was taking place until Mr Peters's report.

**Ms Newman:** I don't know if I can say this in any other way because I've said it several times today, but I think the issue for us was a matter of not having jurisdiction, recognizing that once a warrant is issued, it becomes a police responsibility over which we have no jurisdiction. Nevertheless, when Mr Peters made the recommendation that we work more closely with the police, we agreed and accepted that recommendation, and that's exactly what we've been doing.

**Mr Kormos:** Quite right. And just between you and me, notwithstanding how the minister wants to characterize the auditor and his report, I think he's prompted some very good activity on the part of the ministry.

In terms of caseload, what's the optimum caseload for a probation officer for him or her to do their job effectively?

**Ms Newman:** I don't think there is any magical number in terms of a caseload. A caseload can vary significantly. The composition of that caseload varies. Some offenders take up a lot of probation officer time; other offenders take up very little time. Some require intensive supervision and some don't require intensive supervision.

**Mr Kormos:** Sure, but the best we can do is talk about average caseload per probation officer, right?

**Ms Newman:** That's still how we characterize it.

**Mr Kormos:** It's down to 85 from where?

**Ms Newman:** From 107.

**Mr Kormos:** And 85 surely isn't perceived as the optimum number of cases per probation officer, is it?

**Ms Newman:** Again, as I say, I don't think there's actually any research that suggests what an optimum

caseload size is. We've done exhaustive reviews to determine if there is any kind of research that suggests what the optimal size is, and there is not. We've added 165 probation officers, and we've brought that number down. Our probation officers are still indicating that they're experiencing workload pressures. I think that's very legitimate.

**Mr Kormos:** What's the cost saving per day of people on electronic surveillance—ankle bracelets versus incarceration?

**Mr Low:** If we were to look at our average per diem in an institution being approximately \$138, we could maintain a person in the community on radio frequency, after the activation fee, for approximately \$12 per monitoring event that takes place.

**Mr Kormos:** You say the monitoring is done 24/7, but in fact it's done intermittently during the course of that 24-hour period, isn't it?

**Mr Low:** No.

**Mr Kormos:** Help me with that, because I really don't understand it.

**Mr Low:** The equipment is electronic, as you imagine—and I'm continuing with your conversation with regard to radio frequency. The equipment is operative 24/7. Monitoring of the equipment and of any events that would signify a breach, which may be a breakdown of the equipment or an actual breach of the terms or conditions, is also on a 24/7 basis. So if there is an alarm signalled at any time throughout the day while they are engaged or active on the program, then notice would be provided.

**Mr Kormos:** Like a burglar alarm in my house.

**Mr Low:** That would be an analogy.

**Mr Kormos:** But the GPS doesn't have that same characteristic, does it?

**Mr Low:** It depends on exactly what the expectation would be. It has the ability to be monitored on an on-going basis. You have frequencies; how often do you want to upload or download information? You will have a continual printout of time, and then you will see at what points you actually signify whether they have stayed within the bounds or perimeters. So it really sets out what are expectations. The equipment has the ability to be monitored on a continual basis. That could be extremely expensive to do.

Again, part of the terms of the original RFP was to look at those events and what type of monitoring would take place with the GPS, and then if there was a breach, because a breach would be notified at any time—just to be clear, any time there would be a breach, notice would be given and active surveillance would take place immediately at that time. But if you're just looking at where a person was during that period of time, you don't need to have someone watching the little arrow go over the screen on a continual basis.

**Mr Kormos:** I read the reference to the ministry's reduction in the number of successful parole applications for the seventh consecutive year in a row, which isn't part of the conversation today because it's not in the scope of what people prepared for. As I understand it, it



was a commitment on the part of the government to reduce the number of people who would be eligible for parole. Fair enough. Is electronic monitoring going to increase the number of people who in fact don't serve their jail sentences in jails?

**Mr Low:** I can take you back to a conversation we had last week that outlined the intent of this program, which is clearly to enhance the supervision of community offenders. We've had the discussion. I think we had the discussion with regard to institutional participants last week with our colleague Mr Commeford. The intent of this program and the expansion in the numbers all relate to offenders with conditions within the community. That's really what we're expanding throughout the province at this point in time.

**Mr Kormos:** Conditional sentences under the Criminal Code?

**Mr Low:** That's correct.

**Mr Kormos:** That's interesting, because to date, none of the ankle bracelets have been used for fulfillment of conditional sentences, and conditional sentences have been with us since the 1996 amendments, right?

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**Mr Low:** Yes. I'm sure you'd understand that with a new program coming on, we have a great deal of experience with our staff and with the technology on a program that was in existence. So in the introduction of any new program, we look at a transition period and we look at what we would call a ramp-up. What we see in the first year is we are very slowly increasing the numbers that we will have involved in the program, and that involves, as we introduce this to the community and for a conditional sentence and so forth, a need to provide orientation and training for those who will be most highly involved. That can include the justices, the crowns, the defence and, as well, our own staff.

So we have a couple of things happening here. The first is the actual implementation of the service, so we have our staff who are being trained in the community and actually doing the implementation, and second, it's the orientation and provision of information for those who will take advantage of the service, meaning the justice system.

**Mr Kormos:** Sure. So if you're going to make these available to the courts for the completion of conditional sentences, I suppose part of the ministry's perspective is that you'd be giving the courts another tool to facilitate conditional sentences.

**Mr Low:** In fact, we look at a further means that can enhance the supervision and strengthen the position of the probation officer.

**Mr Kormos:** As a matter of fact, there have been courts in this province that have said, "No, we won't impose a conditional sentence, but we would have, were there an ankle bracelet program available." Are you familiar with any of those?

**Mr Low:** Certainly we've had interest expressed in this program. Again, in terms of enhancing the security and public safety for those who are on conditional sentences, that is one means to do it.

**Mr Kormos:** You see, what I'm inferring is that judges have been saying, "I would like to put you out on a conditional sentence, but I don't quite trust you. So because we don't have an ankle bracelet program for you yet, you're going to jail." Yet your ankle bracelet program is going to let more judges put more inmates out on conditional sentences. I think that's a fair enough assessment, isn't it?

**Mr Low:** Certainly where the judge makes that decision based on the risk assessment of the individual, if it provides them with one further option, it will do that.

**Mr Kormos:** So this government is going to be letting higher-risk people avoid serving sentences in jail. That's remarkable.

**Mr Low:** It's interesting. I think you could characterize it as those lower-risk individuals now have an opportunity for a less intrusive way to serve their sentence.

**Mr Kormos:** But you see, the lower-risk people who are being released on conditional sentences now—you're giving the judge one more tool for a person whom he or she wouldn't otherwise consider releasing on a conditional sentence, aren't you?

**Mr Low:** I think the decision the courts make is one we have to leave to the courts. What we have to do is, when there are conditions, ensure that our staff have the very best way to maintain those conditions and to look at supervision. This is one enhancement to ensure that we're able to do our jobs.

**Mr Kormos:** I trust that you, being the mature, capable professional civil servants that you are, are embarking on these programs with the full approval of the minister?

**Mr Low:** Certainly a new program like this has the support of the minister.

**Mr Kormos:** I'm just pleased to see Minister Runciman eager to have more convicted people out on the streets rather than in jail serving sentences. Aren't you, Mr Levac?

**Mr Levac:** The mike's not on.

**Mr Kormos:** Turn his mike on. Let him respond.

**The Vice-Chair:** The question should be directed there, not between members.

**Mr Kormos:** I'm sorry. You told us last week about—

**Ms Newman:** Could I add a comment to that?

**Mr Kormos:** Go ahead. Yes.

**Ms Newman:** I think the ministry is not intending this to be a net-widening program. It's essentially to provide a measure of compliance for house arrest on conditional sentence, so that for those conditionally sentenced offenders that our probation officers are doing their utmost to supervise, it provides our probation officers with a compliance tool to ensure that offenders in fact are abiding by those conditions. We have been, in our discussions with the judiciary, attempting to ensure that that objective is very clear and that this provides a way of ensuring public safety for those that the courts deem appropriate to place on a conditional sentence. So as I say, it's not intended to be a net-widening exercise.

**Mr Kormos:** But at the same time, it certainly doesn't narrow the net, does it?

**Ms Newman:** We think it will allow us to do our jobs better. That's the intent.

**Mr Kormos:** The prison population is, what did we say last week, 6,000 on any given day?

**Mr Rabeau:** It's 8,500.

**Mr Kormos:** What is the goal in terms of reducing the size of that inmate population by what was the ministry of corrections?

**Mr Rabeau:** We don't have a goal to reduce that population.

**Mr Kormos:** There is no goal to reduce the inmate population in the province of Ontario?

**Mr Rabeau:** No.

**Ms Newman:** Other than by reducing recidivism.

**Mr Kormos:** What would be the purpose of expanding a surveillance system that would require fewer intermittent sentences to be served in custody, in contrast to being served under surveillance outside the institution?

**Mr Low:** I think if we go back—maybe we haven't been able to explain it clearly enough.

**Mr Kormos:** It's probably me.

**Mr Low:** The electronic surveillance program has two parts. One was a continuation of an existing program, which was a very small institutional-based program that we felt we wished to continue. It had approximately 100 inmates who were involved with that program. It is being absorbed into the program that we call the electronic surveillance program, which is, as has been characterized and we've discussed before, an enhancement to the supervision of conditions that is a strategy for our probation officers.

**Mr Kormos:** Look, I don't quarrel with anything you folks say, but judges can order probation as a sentence, they can order probation either following a custodial sentence or accompanying a fine, but not both, or they can order it stand-alone. Judges can order conditional sentences for certain types of offences. Judges can order intermittent sentences that are to be served in custody.

I appreciate that the concept of serving your intermittent sentence outside of the jail is not a new one. I go back a long time now to the John Howard programs and so on. Quite frankly, the history will demonstrate that intermittent sentences were as much a response to the enhanced enforcement and sentences for drunk driving as they were anything else, which I find an interesting little bit of historical trivia. There used to be a day when judges would order your licence suspended but for usage at work, for instance. None of you is old enough to remember that; I certainly am. As the law got tougher, the courts and somehow the ministry bent over backwards to accommodate drunk drivers, to make sure they didn't pay the penalties that the courts expected them to.

Where is the policy objective in not having convicted persons serve the sentences that judges impose? In other words, if it's probation, let them be on probation; if it's in jail on an intermittent basis, let it be in jail; if it's in jail for 90 days or six months, let it be in jail for 90 days or six months; if it's a conditional sentence, let it be one. Where is the policy initiative coming from that causes this government to want to not have people serve the sentences which are imposed on convicted persons? I appreciate it's not new. This is a new regime since 1995. What's the policy being served there?

**Mr Rabeau:** Let me speak to the intermittent issue, if that's the one you're interested in. I think the policy objective here is—and always has been with this program—to ensure that, after screening, we are giving weekend offenders who are in custody access to a program that we feel will benefit them in terms of recidivism. That may be attendance at a drug rehab program or an alcohol rehab program. It may be a period of paying back the community in terms of work for that community, whether it's cleaning up roads or graffiti or working on a community park—some kind of consequence for an individual. So there's been long experience in this province with a group of weekend offenders who have participated in work programs or rehab programs, which from a policy perspective is seen as better than just sitting around an institution for the day. They're doing something that's of benefit to them and/or to the community.

As it relates to another issue you're concerned with, and that's the conditional sentence, one of our big concerns in implementing the electronic monitoring program was to respond to the concerns judges had that they were not feeling necessarily all that comfortable that the conditions they imposed were being met. Our staff, not being able to watch individuals 24 hours a day, weren't able to assure judges that the conditions were being met. I think this program allows us to have a better feel and sense that folks on conditional sentence are meeting the conditions imposed by the courts, and we can assure the courts that in fact that's the case.

**Mr Kormos:** Thank you, folks.

**The Vice-Chair:** Are there any further questions? If not, I think we've had a pretty complete day. We appreciate you and your colleagues, Deputy Minister, coming before the committee—you and others for two days now—and thank you very much for your attendance and comments.

The committee will meet tomorrow morning, Tuesday, February 18, first in closed session at 9:30 and then in open session to consider section 3.10, the tourism program, Ministry of Tourism and Recreation, of the 2002 Provincial Auditor's report. This committee stands adjourned.

*The committee adjourned at 1542.*



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Mr Andrew Cheung, Office of the Provincial Auditor

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# Assemblée législative de l'Ontario

Troisième session, 37<sup>e</sup> législature

## Official Report of Debates (Hansard)

Tuesday 18 February 2003

## Journal des débats (Hansard)

Mardi 18 février 2003

### Standing committee on public accounts

2002 Annual Report,  
Provincial Auditor:  
Ministry of Tourism  
and Recreation

### Comité permanent des comptes publics

Rapport annuel 2002,  
Vérificateur provincial :  
Ministère du Tourisme  
et des Loisirs



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## LEGISLATIVE ASSEMBLY OF ONTARIO

## ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON  
PUBLIC ACCOUNTSCOMITÉ PERMANENT DES  
COMPTES PUBLICS

Tuesday 18 February 2003

Mardi 18 février 2003

*The committee met at 1009 in room 151, following a closed session.*

2002 ANNUAL REPORT,  
PROVINCIAL AUDITOR  
MINISTRY OF TOURISM  
AND RECREATION

Consideration of section 3.10, tourism program.

**The Chair (Mr John Gerretsen):** Good morning, everyone. Welcome to the standing committee on public accounts hearings with respect to the 2002 annual report of the Provincial Auditor as it relates to the section dealing with 3.10, the tourism program of the Ministry of Tourism and Recreation.

We have Mr William Allen, the deputy minister, and various other ministry officials here. Would you please start your presentation, and try to limit it to no more than 20 minutes. There will then be a series of questions from the various caucus members.

**Mr Richard Patten (Ottawa Centre):** There may be.

**The Chair:** I'm sure there will be. Good morning.

**Mr William Allen:** Thank you, Mr Chair.

**The Chair:** Before continuing, I would just like to thank Mr Crozier, our Vice-Chair, for having sat in as Chair for the last number of hearings that we've held here. Thank you very much, and to the committee members for giving him excellent co-operation, so I understand.

Over to you, Mr Allen.

**Mr Allen:** Good morning. My name is Bill Allen. I'm the recently appointed deputy minister of the Ministry of Tourism and Recreation.

Before I begin my presentation, I would like to introduce some of my colleagues from the ministry: on my left, Jean Lam, my assistant deputy minister; on my right, Bill Kenny, president of the Ontario Tourism Marketing Partnership Corp; behind me, Michael Langford, director of my ministry's investment and development office; and Sheila Larmer, director of our tourism branch.

I'll touch on some of the key issues in the auditor's report and then turn it over to Jean Lam to get into more of the details.

First and foremost, I and my senior management team understand the important role the Provincial Auditor plays in ensuring taxpayer dollars are spent wisely and efficiently. I can assure you that both my minister and I

have taken the Provincial Auditor's recommendations very seriously. We've looked at his recommendations for both the ministry and our agency, the Ontario Tourism Marketing Partnership Corp, or OTMPC. Action has been taken or will be taken on all the recommendations.

In one of his recommendations, the Provincial Auditor suggests, and I'll paraphrase, that the ministry and the OTMPC should provide more accountability to the public and develop additional measures that are more directly influenced by ministry programs. In our initial response, we agreed that some performance measures were out of our sphere of influence and undertook to develop additional measures by the end of March of this year. Our performance measures for 2003-04 have already been approved, but we will be developing additional internal measures for the upcoming fiscal year. The OTMPC's performance for this fiscal year will be reported in the ministry's 2003-04 business plan, and they will develop new measures by the end of March of this year.

The Provincial Auditor also recommended that the OTMPC prepare annual reports for submission to the Legislature. Reports have been developed and are currently in production for 2000-01 and 2001-02. We're expecting to table those by the end of March.

The Provincial Auditor also suggests the ministry minimize the risk of overlap and duplication between the ministry's programs and those of other ministries and agencies. We responded by saying we would develop a tourism strategy that would provide a focus for coordinating government efforts. We will be implementing an interministerial ADMs committee to ensure the tourism strategy is not just for the Ministry of Tourism but encompasses all government activity. We also said we would develop an annual survey to collect information on the programs and services that are related to tourism but delivered by other ministries. At the time, we pointed out that there were 11 provincial ministries that had some bearing on tourism.

The minister has conducted consultations on the tourism strategy in several areas: Ottawa, Windsor, Toronto, Peterborough, Niagara Falls, North Bay and Thunder Bay. We've received input from the stakeholders who attended these meetings and expect to have a strategy by the end of the spring.

During the consultations, our minister indicated he would like to see the ministry provide more leadership to the government in coordinating tourism initiatives. On



January 31, our minister announced in Sault Ste Marie the investment of \$6.8 million and the launch of a new delivery model to enhance tourism in the north. The new model integrates northern tourism marketing with the OTMPC.

In November, the ministry also formed the tourism investment directors interministerial working group. This group will provide a forum for discussing common areas of interest in support of the tourism sector.

Another area the Provincial Auditor touched on was licensing and establishments that have not renewed their licences. First let me point out that this ministry does not license establishments such as bed and breakfasts or motels. We are, however, involved in the licensing of resource-based tourism operations. A resource-based tourism establishment licence certifies that the operator is a bona fide business using crown land and resources. Compliance with other minimum standards such as those relating to health and safety is dealt with by acts or regulations such as the Health Protection and Promotion Act, the building code or the Environmental Protection Act. The ministry will be undertaking a review of the licensing function before the end of the next fiscal year.

The Provincial Auditor also made suggestions regarding the hiring of consultants and making sure value for money is being achieved. The ministry is closely monitoring the process for acquiring consulting services, with the assistance of the ministry's audit committee as well as the OTMPC's board audit committee. Additionally, when we get the new directives from Management Board, we will ensure that ministry and agency staff engaged in all aspects of procurement are in fact trained to those new standards.

The OTMPC also put controls in place in September to improve procurement practices. As well, the board of directors has issued a freeze on the hiring of consultants.

A new organizational structure in the corporation is being implemented, with a position dedicated to managing contracts and human resources for the OTMPC. Any new proposals involving consultants will require chair and board review and approval.

Ministry training on risk management and contract management took place in November, and training for OTMPC staff on the same subjects is scheduled for February 26.

At this point, I'd like to turn it over to Jean Lam, who will give you an overview of some of the other recommendations from the Provincial Auditor.

**Ms Jean Lam:** Thank you very much. Good morning, everybody, and thank you very much for the opportunity. In the next few minutes, I will give you a report of where the Ministry of Tourism and Recreation is responding to the Provincial Auditor. But if I may, in the interests of time, I will just provide you with a very brief overview of the ministry and the OTMP.

The role of the Ministry of Tourism and Recreation is to assist in job creation and to strengthen Ontario's communities by supporting and developing tourism, sport and recreation and to work with our provincial agencies as

catalysts for job creation. Specifically on the tourism program, the ministry advances Ontario's competitive advantage in tourism by fostering the right business conditions and by focusing on tourism, economic growth and job creation in all regions of the province. We also have the responsibility of managing the day-to-day government-agency relationship for nine tourism agencies and attractions across the province, and those are listed on slide 21.

The agencies and attractions are listed here. The two attractions of the ministry are Huronia historical parks and Old Fort William. You'll see that the range of agencies covers everything from the convention centres in Toronto and Ottawa to a number of the parks commissions.

Specifically, page 22 describes the Ontario Tourism Marketing Partnership, which is a public-private partnership. It is the ministry's tourism marketing agency, and it was established in 1999. Its primary function is to grow the tourism sector by establishing and branding Ontario as the pre-eminent four-season vacation destination. It does much of its work in collaboration with tourism partners to develop and deliver marketing programs.

Page 23 just outlines a bit of what OTMP is all about. It represents a \$170-million investment by the government over the last six years, starting in 1998. The budget is in the neighbourhood of roughly \$34 million a year in terms of the government's investment, with an additional \$14 million following the tragic events of September 11, 2001. An estimated \$412 million in incremental visitor spending due to advertising has been calculated for the period between January 2000 and September 2002. Roughly \$12 is returned to the province for every dollar spent on advertising. That period was measured between January 2000 and September 2002.

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I would like to now quickly turn to page 27. As the deputy mentioned, the Provincial Auditor's objectives were to ensure compliance with legislation as well as with government and ministry policies and to manage resources with due regard for economy and efficiencies. In the Provincial Auditor's report, a number of observations and recommendations were made. What I would like to do is address recommendations and give you the up-to-date status report as to where we are in responding to those recommendations.

Slide 29 deals with the recommendation that the OTMPC should improve its documentation and analysis to support its marketing decisions. That's basically to document how the OTMP determines which markets it will target with its advertising and marketing programs.

In the OTMP's 2003-04 marketing strategy, they based much of their market analysis on using the instrument designed by the Canadian Tourism Commission, their marketing performance assessment model. They also used a number of other measures. They are also working with the board's marketing performance assessment committee to help further refine their assessment model.



The next recommendation dealt with the OTMP ensuring the efficient and effective delivery of advertising campaigns by arranging for an audit of the billing of their agency contracts, providing formal reconciliation of partner advertising dollars, as well as reviewing the performance of its advertising agencies.

The current status is that this past summer the OTMP went through a new RFP process, which is managed by the Management Board Secretariat's Advertising Review Board, and selected two new agencies through a formal, competitive process. They have met with the advertising and publications agencies for an informal review at the six-month mark of their contracts. There will be a formal assessment at the one-year mark in August 2003, using the standard performance criteria for agencies developed by the Advertising Review Board.

With regard to the reconciliation of partner advertising, the OTMP has changed its billing process and is now invoicing directly from its sales area. A tracking system has been instituted to follow up on any outstanding accounts.

With regard to the recommendation of ensuring that tourism publications are produced and distributed in a timely manner that meets the needs of the tourist, the OTMP has begun a very comprehensive review of its consumer publications. A preliminary report will be completed shortly. The implementation of the new strategy is expected to be completed in January 2004.

To deal with the comment with regard to the timely release of OTMP material, they have developed a new work-back schedule and will certainly do their very best to ensure timely publications.

With regard to French-language publications, the OTMP has recently distributed sales opportunities for the upcoming French publication to all of their partners.

The recommendation that is dealt with on page 37 deals with the financial assistance that's provided to festivals and events through the two grant programs that are operated by the OTMP to ensure that it achieves the various objectives.

I wanted to point out that the ministry also conducted and the minister released a study on funding for Ontario festivals and events in November of this past year. The study made a number of recommendations aimed at strengthening the festivals and events industry as well as ensuring the strategic use of provincial funding to the industry. The ministry is partnering with the major festivals and events organization to implement those recommendations in 2003-04. We expect that those discussions will be complete by the end of this summer. With regard to the role that the OTMP is playing, they are working with the ministry on a strategy to improve financial support for festival and events operators.

In response to the auditor's recommendation that a process needs to be implemented to achieve one of their grant programs, and that's to increase the ratio of off-shoulder and winter events, the OTMP has an agreement with the ministry's field staff to proactively identify shoulder- and winter-season events for support and has

indeed set aside funds for the shoulder and winter season to support more of these events.

One of the recommendations made by the Provincial Auditor was to have a system to verify sponsorship revenues as well as to develop a means of evaluating the post-project reports for the tourism event marketing program. The OTMP has improved their follow-up. More than 80% of the grant recipients have now submitted reports, and letters are being issued on a quarterly basis to those organizations that have not completed their reports. Under this program, future funding is not provided until the reports are received.

Slide 41 deals with the travel information centres. To help assess whether they are effectively meeting their objectives, the recommendation was that the ministry should develop procedures to periodically evaluate whether the centres continue to encourage visitors to stay longer, to return more often and to spend more money in Ontario. The current status is that the ministry is working with both public and private sector partners to create a welcoming environment at strategic border crossings.

There are some new ways of delivering travel services, which will include improvements to the actual exterior as well as the interior design of the travel information centres, as well as providing greater accessibility for information and services for the customer.

The travel information centres are also looking at developing a promotional piece to highlight the services provided by the information centres. They're working closely with regions and municipalities to provide a knowledge base of their local signature events and also to enhance the knowledge of our travel counsellors by conducting product tours so that they're fully aware of the attractions, routes and products on a local and regional level.

To deal with the issue of surveying visitors, the ministry is exploring a cost-effective method of surveying visitors to determine their customer satisfaction and how effective the marketing materials are and is working with industry in partnership to monitor visitations, such as what promoted the visit and the motivation for repeat visitation.

On the issue of the ministry's tourism agencies and attractions assets and the comment that they need to be adequately maintained for the benefit of future generations, I wanted to note that in this current fiscal year the ministry has allocated \$6 million to its agencies and attractions for capital to address health and safety needs as well as other repair and refurbishment. We note that capital planning is continually improving, and for this immediate cycle the asset information did include data on the depreciated value of assets based on the service life and estimated depreciation. The information was further refined and improved for the 2003-04 planning cycle, which included a five-year capital strategy.

The ministry is also undertaking a long-term capital planning strategy project to establish an integrated capital planning and prioritization process that will determine the ongoing capital needs of our agencies. I also wanted



to note that all of our agencies are going to be undergoing program evaluation over the next three years.

With regard to encouraging and promoting improvements in the standards of accommodation and facilities offered to travellers, the recommendation was that the ministry should review the accommodation rating systems in other provinces and those supported by other ministries as well as take a lead role in encouraging the development of province-wide rating systems in Ontario and should integrate any of those resulting rating systems into its information network.

Our response, which starts on page 49, is that we wanted to note that the tourism industry actually does use the Canada Select program as its rating system. The program is voluntary, and it's administered by an industry alliance which is made up of the major accommodation associations in the province.

The deputy mentioned the minister's recent consultations with stakeholders developing a tourism strategy. It certainly did confirm that the availability of quality standards is a priority. The industry expressed the need to have consistent province-wide quality standards measuring total quality: both the overall experience as well as the facilities and service. But the industry did stress that such standards should be developed by the industry with the government acting as a facilitator, and so that will be part of our review of the tourism strategy. As part of that, by fall 2003 the ministry will be looking at options with the industry as to a quality assurance program.

#### 1030

Fifty-two deals with the recommendation of assessing the quality of service and consumer satisfaction with Ontario's tourism experiences. While the ministry collected customer comments through a variety of sources, whether it was through the travel information centres, correspondence, calls to the 1-800-Ontario number or direct calls into the ministry, the recommendation was that we needed to have a systematic process to track that. So we have developed a pilot program. A customer satisfaction tracking process has been initiated by the ministry to look at this in a consistent way across all parts of the ministry. We are going to start this up in March and run it for eight months, and then we'll be doing an analysis to determine whether the process is actually a good one and whether the tools meet our needs. Once this is in place, the information will be gathered on a quarterly basis and analyzed to produce regular reports for the ministry so we'll be able to assess trends—the volume of comments—and see whether there is some commonality in the comments. We are also going to take a look at the process with our legal services branch, with regard to the Freedom of Information and Protection of Privacy unit, to ensure that the process conforms to all legal and FIPPA requirements.

The next recommendation, on 55, deals with the issue of knowledge transfer from consultants to staff. The recommendation was that we needed to do that to avoid a continuous reliance on consultants and that we also needed to document in project business cases the signifi-

cant deliverables and options and ensure that all required approvals had been received. The recommendation went on to note that requests for proposals should be well researched and provide a clear description of the project requirements, and in the case of one particular contract, that financial and operational risks are adequately managed and shared with the vendor.

With regard to the OTMP—and this dealt in particular with the recommendation on the tourism consumer information system—three permanent positions have been assigned and the knowledge has indeed been transferred from the project consultants to the staff. A risk assessment has been conducted with the assistance of the ministry's internal audit branch, and OTMP is working on a number of strategies. Also, there are further staff positions that are going to be managing the tourism consumer information system. It is definitely up to the OTMP's board to bring both stability as well as expertise into the corporation in order to effectively manage the tourism consumer information system.

With regard to ensuring that tourism information is collected in an efficient and economical manner, the recommendation was that the ministry and OTMP look at procedures and guidelines for sharing the information from their databases. The ministry and OTMP have completed an analysis of the gaps and overlaps between the two databases. They are jointly developing a methodology to harmonize collection of data, and work is proceeding on this front.

That brings me to the end of my presentation, in terms of the current status of how the ministry is responding to the Provincial Auditor's report. My colleagues and I would be very happy to answer any questions you have.

**The Vice-Chair (Mr Bruce Crozier):** Thank you very much. We will begin a round of questioning in 20-minute segments with the government caucus.

**Mr Wayne Wettlaufer (Kitchener Centre):** Deputy Minister, you said something about the engagement of industry partners. I think this is really important, given the recommendation in the auditor's report that the industry be involved in setting quality assurance standards. In discussions I have had with much of the tourism industry over the course of the last number of months, there have been suggestions that perhaps there could be a partnership between government and certain private standards-gathering organizations that are out there now—the CAA and AAA. There have been suggestions that the quality assurance standards be constant from province to province. I wonder if you could get into a little more detail on engaging the private sector partners we've been discussing matters with.

**Mr Allen:** First of all, I certainly agree that we do need to be working with the stakeholders in the tourism industry. If we try to impose a standard system that they haven't bought into, it just won't work.

You mentioned using a third-party organization to develop and verify the standards. We've looked at that possibility. One of the concerns is the cost to the industry associated with that type of system. Certainly we are



holding discussions with the tourism industry to try to develop a consistent approach across the province to quality assurance and a system to rate how well establishments are doing against that standard.

**Mr Wettlaufer:** How would we go about setting constant standards when you look at the number of different accommodation areas out there: resorts, bed and breakfasts, hotels, motels? Has there been any suggestion from our private sector partners in that respect?

**Mr Allen:** Let me ask Jean to respond to that. I know that she and some of her staff have had discussions with the industry on that specific topic.

**Ms Lam:** You're quite right. The topic has been raised, I would say, at all the consultation sessions. One suggestion has been to use established rating systems, as you mentioned, whether it's Canada Select or CAA or international ones like Michelin or what have you. I would say, though, that there is not a consensus among the industry, for the very reason you mentioned, on which one should be the official rating system and whether it should be a mandatory or a voluntary system. The tourism operators have indicated in many cases—and the larger ones that are part of major chains usually have their own rating systems.

I think that the common message we've received throughout the consultation sessions is that the consumer does need to have a reliable way of determining, for their own decision-making purposes, and be able to compare that against a rating system, whether it's industry-led or voluntary or mandatory. So one of the things we propose to do as part of our tourism strategy is have some further discussions with the stakeholders to address the very points you've raised.

**Mr Wettlaufer:** Does anybody else have any questions?

**Mr AL McDonald (Nipissing):** I just want to shift gears a little bit and concentrate on northern Ontario, since that's where I come from. How can you ensure that northerners have a voice with your ministry in the marketing of northern Ontario?

**Mr Allen:** As I mentioned in my comments, the minister recently announced the dedication of over \$6 million to northern Ontario marketing. It is being administered out of the OTMPC. There will be at least three directors of the OTMPC board who will be appointed from northern Ontario. In addition, there are a number of committees of the OTMPC that provide advice to the board. They will also have members from northern Ontario to provide input not just on marketing in northern Ontario but on the whole OTMPC marketing program.

1040

**Mr McDonald:** I can tell you that I sat in one of the meetings with Minister Klees when he was in my riding of Nipissing. We really appreciate his visiting the north. I'd heard good things from all the stakeholders, that he took the time to come up and visit us.

Did you announce an expansion of an office in Sault Ste Marie? What was the rationale behind picking Sault Ste Marie to expand in northern Ontario?

**Mr Allen:** Yes, we did. The minister—  
*Interjection.*

**The Vice-Chair:** Continue. We get these odd remarks occasionally. Sorry for the interruption.

**Mr Allen:** Yes, we did announce that the OTMPC would have representation in Sault Ste Marie. I'll ask Bill Kenny to elaborate on that office and how it will provide coverage for all the north out of that office.

**Mr William Kenny:** Thank you, Deputy. Just a couple of things. The office is expected to be open in Sault Ste Marie in April. Regarding the selection of Sault Ste Marie, there was a sense that Sault Ste Marie was equidistant in terms of travel in northern Ontario. There were people who were feeling that the office could be in other communities such as maybe North Bay, but the feeling was that Sault Ste Marie was considered a northern city.

That being said, our intention is really not to operate everything out of Sault Ste Marie. There will be staff in Sault Ste Marie. We hope to hire a director of marketing, two partnership and sales staff and a secretary. So it's a small staff. The partnership and sales staff will be charged with working with partners across northern Ontario, probably one with a northeastern responsibility and one with a northwestern responsibility.

Our strategy is to work with our partners in northern Ontario. We will not be creating advertising campaigns out of Toronto, that kind of thing. The strategies will be put together by the northern committee, which will have 12 to 17 members, and that committee will be bringing the strategy forward to the board for approval, and the funds will be fully dedicated to marketing northern Ontario.

As you know, some of the markets for northern Ontario have different emphasis than some for southern Ontario, so this is important, that we're able to reflect that in the approach.

**Mr McDonald:** As you know, northern Ontario makes up about 85% of the province of Ontario, and to pick one centre, such as the Soo, which is, like, a five-hour drive from North Bay, for example—and I don't know what the drive is to Thunder Bay from there, but it's probably pretty far—

**Mr Tony Martin (Sault Ste Marie):** Nine hours.

**Mr McDonald:** Nine hours.

You're dealing with a vast expanse in northern Ontario. I was just wondering about the strategy of picking one central office.

**Mr Kenny:** I wouldn't really characterize it as one central office; I would characterize that as, I guess, OTMP staff location. Money was also provided for the northern Ontario travel associations through this announcement, and they will become part of our partners to reach all of the tourism operators in northern Ontario. They have a very strong membership base. All of our plans will be worked through with those associations. So our approach is very much to reach out to all the operators in northern Ontario and make sure they can



have access to all the advertising programs and things we're going to be producing.

We also have the possibility of sales staff working out of their homes and still coordinating through the Soo location in terms of communication with OTMP. I guess we'll look at that as we evolve the service. I think our committee will be very strong in terms of advising us on how to best serve northern Ontario. So from the committee's view, we should be ensuring that we have a stronger presence in other communities. We can certainly look at that down the road. But Sault Ste Marie was, I guess, the beginning.

**Mr Allen:** I would also mention, as someone who worked in the north for a number of years, that you don't spend very much of your time in the office. I spent probably 90% of my time out on the road meeting with stakeholders. We would anticipate the same thing with staff who are in the Soo office, that that will be their base of operation, but most of their time will be spent outside the office.

**Mr McDonald:** As with any successful business, obviously you have to send sales personnel out to sell your product. Do you have a strategy? Obviously, it's great that we can do some marketing and some promotion through publications or advertising. Do we have a staff that's selling Ontario to the world? Is there a staff that goes out and sells Ontario?

**Mr Kenny:** I was explaining that there would be a director of marketing and there would be two partnership and sales positions. Those two people will be fully dedicated sales people to make sure that northern operators are aware of the opportunities in helping them to buy into OTMP programs.

**Mr McDonald:** Have you made a distinct difference or made a line in the sand where it comes to promoting southern Ontario versus northern Ontario with this announcement?

**Mr Kenny:** I wouldn't say there's a line in the sand. I think the approach that OTMP is trying to take is to sell experiences, so the consumer doesn't know there's a line between northern and southern Ontario. We try, through our research, to understand what consumers want to buy. What are they looking for? That is driving all of our marketing decisions. So we'll be looking in northern Ontario and working with the operators to identify those experiences that they think will drive business into northern Ontario.

We already have fairly strong programs in terms of fishing and snowmobiling. There are a number of campaigns that have been evolving in the north over time, and I think through our product committees with OTMP, not just our northern committee, we'll be looking at products for northern Ontario as well, what we can build.

One of the great examples of the products we created was Paddle Ontario, which brought together around 31 tourist outfitters in the canoeing/kayaking business. They pooled their money together and created this concept of

Paddle Ontario. Many of those operators are in northern Ontario.

We're looking for things that are across the province and people go to where that actual experience is, so we'll be trying to build those experiences with our new northern committee.

**Mr Allen:** I would just add that we will be tracking the dollars that are spent on northern Ontario initiatives so that at the end of the year we'll be able to account for the dollars that were spent on northern Ontario to comply with what was announced in the minister's announcement.

**Mr Kenny:** And I would just add that the expectation is that the Chair of that northern committee, similar to all of our committees, makes a report to the board on a quarterly basis in terms of their progress and activities for the previous quarter. We have a built-in system of reporting back between our committees and our board.

**Mr McDonald:** So this northern Ontario board—is there a board for Ontario itself?

**Mr Kenny:** Yes.

**Mr McDonald:** Does northern Ontario have representation on that board as well?

**Mr Kenny:** There will be three new members appointed to the provincial board.

**Mr McDonald:** How many members are on the board itself?

**Mr Kenny:** I think we have approximately 12 members on the board.

**Mr Allen:** There are 12, so the additional three to the current board. I guess the good thing about that approach is that they will be able to influence all of Ontario marketing, not just northern Ontario.

**Mr McDonald:** Yes. I was coming around to that point. How much money do we spend in promoting Ontario to the world? What's the budget?

**Mr Allen:** The OTMP budget is \$34 million—

**Mr Kenny:** Approximately \$34 million.

**Mr Allen:** —and you add the six, so it's about \$40 million now, total budget.

**Mr McDonald:** So northern Ontario is making up about 15% of the budget. Does northern Ontario have the ability to partner with the rest of the budget in promoting Ontario? If it does, how is northern Ontario benefiting from the greater number that you have for southern Ontario?

**Mr Kenny:** The programs are open across Ontario, so when we go out to sell our snowmobile book, people can purchase listings and advertising in the materials. We do have set fees that are established for each one of our programs, but northern Ontario can buy into all of the programs. For example, our angling guide is pretty much made up of northern angling operators that have bought into the program.

The programs are wide open, so it's not a question, I guess, of saying that when we do an advertising campaign there's so much dedicated to southern Ontario and so much dedicated to northern Ontario. I think there's a protection for northern Ontario in having the funds

separated out for some specific northern advertising, but our overall campaigns also drive travel into Ontario and into northern Ontario as well.

**Mr McDonald:** I think the key to success in northern Ontario is to promote four-seasons tourism, not just—you have come back to the snowmobiling a couple of times, and the fishing. There's a lot more to northern Ontario than snowmobiling and fishing. It's really important that we key on all the four seasons in northern Ontario to be successful, because you can't just have a boom and bust and expect stakeholders or tourist outfitters to survive.

**Mr Allen:** That's a very valid comment. As Jean mentioned, that's one of our strategies for all of Ontario, to promote it as a four-season destination. I think it's even more important in northern Ontario.

1050

**Mr Wettlaufer:** I'd like to follow up on this northern discussion. As you're aware, Deputy, we had a consultation tour last summer and fall through the north, and I was part of that tour. We heard from a number of stakeholders. In fact, I was very impressed with the attendance throughout the north.

We heard from a number of them where they wanted us to go in this new program. Since we've announced the program, I've heard from several that they were quite impressed—"several" meaning five or six or less. That may not necessarily mean that everybody is pleased. I was wondering if you've heard from other stakeholders what their reaction has been.

**Mr Allen:** I've heard from a few stakeholders. Actually, I haven't heard from as many as you have. I also will be spending time in the north over the next few months as the new deputy. In fact, the first stakeholder meeting I had was in Thunder Bay the week I started with the ministry. So I'm certainly interested in the reaction to what we're doing in the north and will be talking to a number of stakeholders for the next few months. Bill, I don't know whether you've heard from—

**Mr Kenny:** Overwhelmingly, from what I've heard, it's positive. I think the stakeholders felt it was important that they were brought back under the Ontario brand. There was a real concern that the north should not be seen to be separated out from the province's advertising. So I think from that perspective there are a lot of people who are very happy. They think that, as with most things, the proof will be in the pudding and it's up to us to do a good job of marketing Ontario's northern products into their markets.

In June we have partnership forums and we meet with members of industry. We usually go to about 20 communities across the province. We'll be using that opportunity in northern Ontario to get more input from the various stakeholders in the communities in northern Ontario as to our plan, and through our northern committee they'll be developing a strategy. So I hope that between the expertise of those northern leaders who are put on the committee and then the vetting through our

partnership forums in the communities, we'll put together a very solid plan.

**Mr Wettlaufer:** How much more time do we have, Chair?

**The Vice-Chair:** You have a minute.

**Mr Wettlaufer:** We'll pass.

**The Vice-Chair:** We'll move to the Liberal caucus.

**Mr Ted McMeekin (Ancaster-Dundas-Flamborough-Aldershot):** I just want to say at the outset that you obviously have your work cut out for you. The auditor identified a number of concerns and I guess just out of curiosity I'd like to get some feedback as to how many of the concerns the auditor identified you had been working on or to what extent this is a useful process generically in terms of hearing from the auditor and then setting some new directions around vision and interpretation.

**Mr Allen:** We always welcome the feedback from the Provincial Auditor. There were quite a number of recommendations that we either were working on or we knew we should be. So it confirmed some of the thoughts that we had. There were probably some areas where over the years we weren't as focused on some of the processes. So it helped us refocus. For example, in our management orientation program we have indicated we will be including consulting contracts and management of consulting contracts in the orientation program for all new managers. That's something we haven't done in the past, but one of the recommendations from the auditor indicated that we needed to provide better training and better knowledge on managing consulting contracts. So there's an example of how we will be improving our processes.

**Mr McMeekin:** OK, thanks. You mentioned focus. That seemed to be, again by way of overview, one of the concerns the auditor had articulated, I thought, rather well: the five different missions, six different structures, 11 different ministries involved. As one who has dabbled in social research, I know, and I suspect you know, that what gets measured gets done. If you can't measure something, how can you spot success? And if you can't spot success, how in heaven's name are you ever going to affirm it? I think the auditor really spoke quite eloquently to that.

I guess in the context of the 11 different ministries and the identified overlap and duplication, there are some hints here around an emerging strategy. Can you explain perhaps a little bit about what kind of templating you might do in terms of overall objectives and how you plan to implement those to ensure that there is the focus that you've admitted was perhaps somewhat lacking?

**Mr Allen:** First of all, I guess if you look at all the mission statements and the vision, the one underlying common thread is the economic benefit to Ontario that the tourism industry has provided, and I don't see that changing. We need to focus on encouraging a vibrant industry, one that contributes to the economic well-being of Ontario. So I don't see that changing.

I guess the other thing that didn't change, even though we moved from various ministries, was that we did have the same staff and we did have those staff working over



the past several years with the same stakeholder groups. So there are some consistencies there, even though the configuration of the ministry has changed.

In the next short while, as we've already mentioned, we will be developing a strong strategy on how we will work with the tourism industry over the next several years. I think that will help us with the refocusing that I spoke of earlier.

**Mr McMeekin:** So we seem to have this emerging consensus, looking at your business plan, of the economic spinoffs of stimulating employment as paramount. That leads me to, and perhaps answers, my next question: who's the customer in this whole thing? By the way, I want to take a minute just to acknowledge that, given the road we travelled, maybe the road less travelled is the road of consulting intentionally with stakeholders and trying to capture their involvement in sharing whatever focus is here. In that sense, I want to compliment some of the recent directions that have been taken to address that.

Notwithstanding that, I'm not as intimately involved, obviously, as you and your aides and some others are, Deputy, but I continue to hear from stakeholders this sense of the ministry, and particularly the marketing side of it, as being kind of a top-down agency, not really involving—perhaps as the northern initiative is attempting to do—some of the other associations, a sense of almost growing resentment from some of the other OTAPs. Have you had that kind of feedback? If you haven't, why not, because I'm getting it, and if you have, what are you doing about it?

1100

**Mr Allen:** I'll make a comment and then I'll ask Bill to comment, quickly on the OTAPs. Our relationship with stakeholders is critical; it's important. It was one of my top priorities when I came to the ministry. That being said, that's a huge challenge because, as you know, in the tourism industry we have large operators, large corporate owners, through to small independent operators. So reflecting the industry becomes a challenge and interacting with that industry is an ongoing challenge. I think we've done a good job, both through the ministry as well as through the OTMP.

I'd ask Bill to comment specifically on the initiatives in the north and perhaps comment on some of the feedback that you may be receiving.

**Mr McMeekin:** A sense of equity that some are feeling may not be there.

**Mr Allen:** We understand that.

**Mr Kenny:** I think the process that we've used in OTMP since almost the beginning in 1999, when we started—we're still quite a young organization—was to try to be inclusive. It is a very, very large industry out there, and the way we tried to involve the stakeholders was very much through the creation of the board, as well as a series of committees. We had product committees in the areas of city experiences, touring experiences and outdoor experiences, each one of these committees having about 10 to 12 members on it from the industry. They're all volunteers. They get paid their expenses;

there is no honorarium paid. We also had market committees in the area of Asia-Pacific, Europe, a domestic committee and a US committee. These committees were charged with sitting down and helping us to design the strategies and tactics that we do. So I would suggest that OTMP has been pretty aggressive in trying to get stakeholders involved in developing the strategies.

When the strategies are developed, we have every year come out with a marketing outlook document. The document—and here's an example—basically indicates, "Here are the strategies and tactics that we're planning for the coming year." We're trying to be a year ahead of the marketing cycle so that people can buy into our programs. Our success is really based on having stakeholders, industry operators, buy into our programs.

At the same time, our programs have to try to reach the consumer. The consumer is, in our mind, who we're trying to reach. Consequently, our programs are designed to try to do that. Not all are perfect. In many of the programs we'll run an advertising program one year and then change it based on the results we got and try to improve it the next year. I can give you some examples of where we have some programs that I think have done fairly well.

So in terms of the input side, I think we've received a lot of input, and when we do the consultations around the province annually to get reaction to our plan, we try to amend the plan to respond to the issues that are coming out.

In terms of resentment or of concerns out in the industry, when we go out with our programs we are looking for cash-in-kind contributions toward the program. It's difficult for some of the smaller operators to develop a large campaign, if you know what I mean. The way OTMP has responded to that is that basically we created a program called the industry proposals program, which doesn't sound very innovative, but the program is basically open-ended. There are two deadlines a year, and we send out our monthly communiqué indicating when the deadlines are for this program. We encourage tourism organizations, not just an individual one but groups of municipalities with their tourism organizations, to come together with a proposal to us. So, yes, the strategies are developed by committees up to the board, with the board making decisions and approving the overall strategies and budgets.

The buy-in to the programs is really ultimately the decision of every individual operator. An operator can decide they want to buy into one publication, a radio spot, whatever it might be. To some extent, they have to decide what they think will work for them, and we have to pitch them as to why we think it would work for this type of operator. But it's their decision whether or not to buy into our programs.

Some of the associations, for example, feel that the ministry should be providing operating funding to them. Some of the destination marketing organizations feel that we should be helping to purchase additional copies of the tourism material they are producing. We are trying to



say, basically, "Yes, we want to work with you, but we want to work with you on a broader scale to try to market Ontario." Some DMOs—local, smaller tourism associations and organizations—are very strong at marketing their local customer base. We're very much interested in the offshore and US markets, that kind of thing.

**Mr McMeekin:** In our business, we talk about supplemental questions. I have a supplemental here on this. If I understand you correctly, the idea of bundling groups is to perhaps compensate for the built-in difficulty that the small operator may have in terms of accessing the programs. Is that the theory?

**Mr Kenny:** The trend now is that instead of a municipality or hotel buying an ad in one of our publications, many of the areas are coming together, which we think is great, basically saying "City of Sudbury" and then having all the hotels and attractions. They have all pooled their money together in order to be able to afford to be in the advertising and in some of our programs. Not everything we do requires money. For example, tourism operators can have free listings on our Web site, and a lot of the decision-making in terms of travel, certainly in terms of pre-planning for travel, is done on the Web now. That's why it is very critical that our Web site function properly and have all the product on it. So there's a wide range of possibilities for different organizations to buy into, in terms of our programs.

**Mr Allen:** If I could just add that in a lot of cases it would be cost-prohibitive for small operators, as you would know, to market into the US or overseas, whereas if they partner with the OTMP, that gives them the leverage into some of the markets that they normally would not be able to access.

**Mr McMeekin:** As tourism critic for my party, I do whatever travelling I can to talk to stakeholders, but as you might imagine, in this highly technical age we get a lot of e-mails, most of which are unsolicited, offering advice. You probably get some of those from time to time too.

**Mr Allen:** We do.

**Mr McMeekin:** One I received the other day had an interesting comment, if I can just read it into the record and maybe ask you, Mr Kenny, to respond to it. By way of a brief preamble, you had mentioned your desire to consult with stakeholders and involve them in the forming of your programs. This stakeholder says, "Although OTMP did form an industry advisory committee to assist in defining industry needs, this committee met only once, and the process of developing RFPs went 'underground' out of the industry or OTMP board view. The system as it stands is ineffective, and in the view of several existing private sector and association solutions, may not be necessary." Then he goes on to say, "At the least, a meeting of all tourism Web site operators should have been organized prior to the RFP competition to examine roles and responsibilities to see if the \$16 million"—recently announced—"needed to be spent by provincial taxpayers at all." The gist is pretty clear. Can you comment on that?

**Mr Kenny:** As I mentioned before, the Web site is very critical to us. That is the way people are booking, and so investment in a Web site is very critical. I would like to describe for you, however, our Web site program, because I think that's important. Some of the history on this, if you will, is that for a number of years, tourism had been promoted through a 1-800 line. There was a call centre and calls came in. Technology evolved to the point where we could have reservations on Web sites. I know there are organizations and private sector people out there—it's a little bit like the rating system issue—who want to build a Web site and sell it to the government etc. When we looked at creating the new Web site, the board of directors basically was coming from a situation where we had privatized the entire service and it was operated by Bell. Frankly, there was a lot of consternation in the industry, because it was very much a pay-for-use service and it was a reservation service. There was a feeling that it was a bit of competition with some of the other organizations which were trying to create their own reservation system.

1110

The board decided to get out of the business of reservations and to create a new portal, which I guess is the best approach in terms of creating a Web site that is luring people to Ontario through the information. Then you very quickly try to go through the experiences, have it be exciting and then triage them off to the individual operator to close the sale. So instead of OTMP doing the sale through a vendor, we're just funnelling the information and trying to get the customer off very quickly to the—

**Mr McMeekin:** With some link sites, I'm assuming.

**Mr Kenny:** Yes. They're links.

So an RFP was done. We looked out into the private sector. We got a number of responses to the RFP. When we selected the vendor to undertake this, basically what we were buying was a call centre operation—and just to be clear, that's a room with call centre operators who get paid an hourly rate to answer the phones—and we had had that ever since the beginning of 1-800 Ontario, in terms of responding. We also have fulfillment, which is when you call 1-800 Ontario and you want publications. We ship them anywhere in North America to tourists who want information on Ontario. That's in the budget as well. The actual maintenance and hosting of the Web site is about \$1 million. That's comparable to what we were doing with the Web site or what Bell was paying for their Web site, essentially, in the previous system. The actual building of this system did not cost \$16 million. The building of the system cost \$3.3 million, which, when we look at other sites of this complexity, is well within the normal expenditure to create something like this. The rest of the money is basically a three-year operating cost for manning the calls, distributing the literature and hosting the Web site.

Everything is integrated so that as consumers call in we can start understanding what their interests are through the Web site. We're asking them for permission



to send them material on Ontario. If they have specific interests, whether it's golfing, skiing or whatever it might be, we'll be able to send specific messages out to them, as opposed to creating the large publications which are actually very expensive for us to continue producing. When so much information is available for travel on the Web and that seems to be the way some of the planning is done, that's the way we want to go.

I'll conclude by saying that there are some people who would like us to get back into the reservation business because it will generate revenue. However, at the moment, the board's position is to create the interest through the Web site and get the sale directly to the individual operators to close the sale.

**The Vice-Chair:** One more question.

**Mr McMeekin:** Just a quick supplementary, because in the next round we can catch some others. I wasn't reading the reservation concern into the comment; I was reading the frustration about a mechanism being put in place which then really wasn't used and a growing—because the memo highlights some similar kinds of concerns—almost a burgeoning sense that the stakeholder customers really weren't having adequate opportunity to feed into the decision-making in system development.

**Mr Allen:** We should just add that we have recently undertaken an assessment of the Web site. We are out soliciting feedback from the people who are using it as well as from the operators. Actually, compared to other Web sites of a similar nature, this Web site is faring quite well.

**Mr Kenny:** If your question relates more to the broader OTMP, what I would say is that the ministry is undertaking a program review. I believe the consultants in that program review will be looking at what kind of stakeholder feedback we get. We actually have a report on stakeholder feedback, which we can provide to you if you're interested.

**Mr Wettlaufer:** On a point of order, Mr Chair: I was wondering if you could direct Mr McMeekin to table the e-mail he received. I think that's something the ministry should be able to address with the individual who had a concern.

**The Vice-Chair:** I can't direct him to do anything, but I can certainly ask him to do that.

**Mr McMeekin:** I've been asked specifically not to do that. The person identifies some fear of retribution here. I know this government would never do that, but I want to respect that wish, Mr Chair. I don't mind sharing it, perhaps privately, without the name attached.

**The Vice-Chair:** If you could block out the name, that might be something they could use.

Mr Martin?

**Mr Martin:** You'll probably understand if I start off with some questions—I'm concerned about the northern Ontario tourism marketing board and its demise and what its new life is going to look like. I guess I want to follow up on some of the questions Mr McDonald raised earlier. The announcement that was made a few weeks ago—and I've spoken to a few people in the economic development

business in the north, and tourism in particular, and they indicate to me that in fact what happened there was that this wasn't an expansion. You had an office in Thunder Bay, the northern Ontario tourism marketing board, and in North Bay—or just in Thunder Bay?

**Mr Kenny:** I believe the NTMC had their main offices in Thunder Bay and had staff working out of, I believe, Sault Ste Marie and Timmins—perhaps North Bay; I'm not 100% sure on that.

**Mr Martin:** But what we've done now is consolidate that into an office in Sault Ste Marie. So it's not a new office; it's the moving of an office to Sault Ste Marie. Is that correct?

**Mr Kenny:** It would be a new office for OTMP. The prior organization was a not-for-profit corporation that was operating, I guess, with a different business model than we were operating with.

**Mr Martin:** But as far as the budget and the staffing and that, is it an increase, is it a decrease? What are we looking at here?

**Mr Kenny:** I believe the amount of money going into the new northern model is pretty much the same as what was going into the old NTMC organization, from a marketing perspective. From an overhead perspective, I think we're looking at the office overhead being lower. It was very much a point that was raised in consultations with the parliamentary assistants that they didn't want us to create a large bureaucracy for tourism marketing in northern Ontario. So I guess we're trying to walk that fine line of not wanting to create a large number of positions in northern Ontario, and obviously the OTMP who are located in northern Ontario will be working very closely with all the OTMP staff to put things together. So we think there are some efficiencies there.

**Mr Martin:** But what you're saying, though, is that on the operating side there will be a reduction in the amount of money being spent but the marketing piece will be basically the same, so we're not talking new money here or anything new.

**Mr Kenny:** Not huge increases over the previous money that was going to NTMC.

**Mr Martin:** The communication that went out would give you to believe, if you didn't look into it closely, that this was new money and a re-energizing of the marketing capacity of your organization, but in fact it's not.

**Mr Kenny:** I think the capacity is there, in terms of us working together, and that wasn't happening very well under the previous model.

**Mr Martin:** Just another question then: what happened in the interim period between the northern Ontario marketing association and the new connection with the board to, number one, both market the north in a very critical period of time, given some of the comments made by both the Provincial Auditor and others that in fact there was a decrease in domestic tourism, but also an indication that there was potential, given 9/11 and people's nervousness about flying off to exotic destinations and perhaps staying in North America. What happened in



that interim period, and what happened to the money that was dedicated for that period of time?

**Mr Kenny:** There was a wind-down of the NTMC, and as the NTMC was wound down the Ministry of Northern Development and Mines established a steering committee. The steering committee set up an office in North Bay, and the funding to maintain tourism marketing during that period was done through this interim office. The funds were coming from the northern heritage fund.

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**Mr Martin:** What kinds of things were done in that interim period? Do you have anything concrete you could specifically show me that was actually done to promote northern Ontario?

**Mr Kenny:** I don't have anything I can show you *per se*, because OTMP was not directly involved in the funding or the final decisions of the interim marketing that was going on. But I can tell you from sitting on the steering committee that funds were provided to the NOTAPs to continue their marketing activities, funding was provided to cities, an attraction booklet was produced and distributed. There was a Northern Allure brochure that I know they put together, which was a combination of all the different regional areas in northern Ontario coming together. I know that was marketed in the Toronto area to get people from the GTA to come north. So a number of initiatives were funded through the interim office through MNDM.

**Mr Allen:** I guess the other thing I would mention is that even though OTMP wasn't officially involved in the north, a number of its initiatives would have an impact on the north. You mentioned post-9/11. That wasn't just devoted to trying to bring people into southern Ontario; it was all of Ontario. So there were some benefits from OTMP programs prior to this most recent announcement.

**Mr Martin:** I guess I didn't see them. I certainly saw brochures in our newspapers in the north promoting southern Ontario. Maybe I should have spent more time in the south trying to figure out what you were doing in terms of promoting our part of the province down here, because we didn't see it—I didn't see it. I know there are a number of very important attractions in our area that are struggling to keep their heads above water. They have tremendous potential, but they're struggling to get there.

I brought up, on two different occasions, pamphlets that came out particularly promoting heritage sites, which included minimal reference to sites in the north and none at all for Sault Ste Marie. We have a number of really interesting heritage sites in Sault Ste Marie, not the least of which are the heritage bush plane museum and the Old Stone House, that were just not included. We were quite disappointed—I was quite disappointed, and so was my colleague from Nickel Belt, Shelley Martel—that our attractions weren't included more aggressively, which would fit in with the criticism that was made by the Provincial Auditor that in fact a lot of the publications were not comprehensive and a lot of them came out late. For example, we have our winter carnival, which was just

finished in the Soo. If that's not promoted well in advance, we're not going to get to take advantage of the attraction that could be to our area.

**Mr Allen:** If I could just comment on the inclusion of heritage sites, we'll follow up with the Ontario Heritage Foundation, which puts that publication together. They're an agency of the Ministry of Culture. We'll follow up with them to look at how they come up with their listings and how they decide what gets included and what doesn't.

**Mr Martin:** OK.

To go back to the northern Ontario marketing board, what happened there?

**Mr Kenny:** MNDM had a consultant review, and the consultants came in and assessed what was happening with that service. As a result of that review, the ministry decided to terminate the arrangement with the not-for-profit company.

**Mr Martin:** Can you share with us what in that review triggered the disbanding of an operation that was heralded, when it was first announced, as the saviour for everything touristy in northern Ontario, in such a short period of time?

**Mr Kenny:** It's difficult for me to speak for the Ministry of Northern Development and Mines.

**Mr Allen:** Perhaps we can get more details on that for you. But our understanding was that the operators in the north didn't feel that organization was delivering what they were hoping would be delivered. We don't have any details here today that would suggest what was found in that report.

**Mr Martin:** If that's the case—and I know you can't speak for MNDM—would you say, then, that they wasted \$5 million per year for the duration of that?

**Mr Allen:** The feeling was that the program they delivered could be more effective and, in particular, better tied in with the programs that the OTMP delivers. I think that was the problem that resulted: you had the organization operating in the north separate from the OTMP and you weren't getting the synergies that you should have from marketing northern Ontario as part of the whole province.

**Mr Kenny:** I can add one thing, just because I was hearing this from stakeholders. There were concerns about how representative that board was. There were concerns that there was no representation from the franco-phone organizations in northern Ontario. There was no representation from aboriginal tourism on that board as well. So I do know there were issues around whether that NTMC board was representative of the stakeholders in the north.

**Mr Martin:** Mr Chair, if you don't mind, I have a question connected to this to the Provincial Auditor.

**The Chair:** Sure. Go ahead.

**Mr Martin:** Given the obvious dissatisfaction of at least the government with that organization and the fact that it did spend, on average, about \$5 million a year for its life, and the fact that it was wound up in such a summary and quick fashion and then not replaced for



some time during a critical period in the tourism history of northern Ontario, is there something that can be done to find out what happened to that money, where it was spent, how it was spent, the effectiveness of that spending?

You've mentioned here in your report, where this ministry is concerned, a concern about how consultants were hired, what was done to make sure they were actually delivering and all those kinds of things. I'm sure this \$5 million was probably spent, in some part, hiring consultants and contracting with different folks to deliver product that obviously wasn't satisfactory to the government. Is there anything that you can do to help me get a handle on why this was such a colossal failure and where in fact this money went? In the interim, was the money that was dedicated to this organization taken back by the government, was it spent someplace else, was it turned over to the new corporation?—those kinds of questions.

**Mr Erik Peters:** There are two options before you. One is that as a result of the comments here, it does not necessarily limit the committee from hearing from this ministry. You could, for example, invite the Ministry of Northern Development and Mines to appear before the committee and provide an explanation, if you have agreement from the committee to do that. The other option is to charge my office with a special assignment to do an audit of that particular situation.

**Mr Martin:** How do we do that?

**Mr Peters:** That would be by way of a motion of the committee charging me, and that would require a majority vote of the committee to establish that particular motion.

**Mr Martin:** I would make such a motion.

I move that the Provincial Auditor be charged with doing an audit of the Northern Ontario Tourism Marketing Association—is it?

*Interjection.*

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**Mr Peters:** I'm sorry. I'm just advised that I may have misadvised you on this. It is a private sector organization, so my mandate would not extend to looking into a private sector organization. Our mandate is limited to ministry programs and the administration of those programs by ministries, crown corporations and agencies.

**Mr Martin:** OK. I would move, then, that we call the Ministry of Northern Development and Mines before this committee to answer questions with regard to the Northern Ontario Tourism Marketing Association.

**The Chair:** It's certainly appropriate to bring a motion forward at any time, and we can discuss it at this point in time, as long as you realize that this is taking away from your 20-minute cycle here.

**Mr Martin:** Yes, that's fine. I think it's important enough. This association was announced a few years ago with great fanfare. It was going to be the be-all and the end-all. Then, within a matter of a short period of time, it's done in: no accountability in terms of where the money went, what it was spent on. When you look at the report that the Provincial Auditor has done with regard to

the Ministry of Tourism and marketing and the lack of a framework or controls or accountability where contracts were let out and that kind of thing, it would be good that we who are charged with being responsible for the public life of this province and the spending of money find out what that particular ministry did with that money.

**The Chair:** So your motion is to request the Ministry of Natural—

**Mr Martin:** Northern Development and Mines.

**The Chair:** —Northern Development and Mines to appear before the committee.

**Mr Martin:** That's right.

**The Chair:** Is there any discussion on that?

**Mr McDonald:** It's unfortunate Mr Martin isn't informed or hasn't read his background information, but as you know, the committee picks four areas of the auditor's report where they want to call up the ministry staff and maybe question them on it. His party did pick four items, and here he is today trying to pick another one just because he wasn't prepared. I just want to go on record as saying I won't support this motion.

**The Chair:** Just for the record, I think each caucus picks three areas; that's how we get to the nine areas that we actually take a look at.

**Mr Martin:** Listen up, Mr McDonald, as he tells you what the process is.

**The Chair:** We certainly have the mandate to review it, but it's entirely up to each member as to how you vote on this, of course.

**Mr Martin:** If you're afraid to bring the ministry forward to answer these questions—

**Mr McDonald:** I'm not afraid of anything, Tony. Why don't you just—

**Mr Martin:** Then what's your problem, Mr McDonald?

**The Chair:** Let's have some order here. Is there any further discussion on Mr Martin's motion?

I'm going to call the question, then. All those in favour?

**Mr McDonald:** Could I get a recorded vote? Is it too late?

**The Chair:** No, it's not too late.

**Ayes**

Crozier, Martin, Patten.

**Nays**

Gill, Hastings, McDonald, Wettlaufer.

**The Chair:** That motion is defeated.

Mr Martin, you have about three minutes left in the opening remarks.

**Mr Martin:** OK. I think it's important to put on the record that we don't have agreement by the government side to bring the Ministry of Northern Development and Mines forward to answer questions with regard to the de-

mise of the Northern Ontario Tourism Marketing Association. That is really unfortunate, because we really do need to know where that money went, what they spent it on, what kinds of contracts were let out, what kind of accountability was there, where the money that was left over after the association was wound up went, and what continuity will be there in the new operation setting up shop and moving forward. I find it regrettable and unfortunate that we will not get a chance to do that.

I have some further questions, though, to the ministry in terms of investment in infrastructure in the north. The Provincial Auditor earlier, before 10, indicated, and I agree with him, that money spent through this ministry is in fact an investment in northern Ontario that generates revenue for people doing business up there, people working up there, and also for the government. I'm wondering what activity the ministry has entered into to ensure that there is in fact an infrastructure in place, particularly in northern Ontario, that will attract significant numbers of visitors to our area. I raise that because I have some concern.

In the North Bay area, Mount Antoine was allowed to go down. I'm not sure why the government, given that the Premier was from that particular community, didn't step in and, with your ministry, sit down and work with the people there to protect the economy of Mattawa and North Bay with that very important piece of infrastructure. Searchmont almost went down, but the community came forward and kept it going for two years until private sector interests could come forward and pick it up. It has had a fabulous year.

I know in Thunder Bay they've lost a number of facilities in the skiing industry in the last couple of years. They lost the big jump that used to be there.

What are you doing to grow and enhance those opportunities as opposed to just sitting back and watching them disappear?

**Mr Allen:** There are three points I'd make. First of all, as mentioned earlier, we do have a number of attractions as part of the ministry, and we're reviewing and developing a long-range plan on ensuring that those assets are maintained and improved. I mentioned I was in Thunder Bay earlier this month and visited Old Fort William, one of our agencies. They talked to me about plans they have to enhance that attraction as one that will draw more tourists to the northwest.

We do have the SCTP program under SuperBuild that has been available to the tourism industry, covering culture, sport and tourism.

I guess the third area where we've worked the past number of years is to look at attracting private sector investors to upgrade, to introduce new attractions to the province—and this includes northern Ontario—to inject new money to bring new attractions where they will become an overall magnet for that particular area of the province. So there are three areas that we're focusing on to look at the infrastructure within tourism.

**Mr Martin:** Do I still have some time?

**The Chair:** That's it, Mr Martin, for now.

**Mr Martin:** You're cutting me off.

**The Chair:** No, I'm not cutting you off at all, Mr Martin. You'll have plenty of opportunity, probably this afternoon.

The government side. Mr Gill.

**Mr Raminder Gill (Bramalea-Gore-Malton-Springdale):** Thank you for appearing before the committee. How is your ministry working with the festivals and events industry to develop this sector?

**Mr Allen:** As Jean mentioned earlier, we've completed a study with that sector. I think I'll call on Michael Langford to give us some details on the results of that study and also how we're working with the industry to develop some packages.

**Mr Michael Langford:** As the deputy was saying, we did conclude a study earlier this year and we are working in very close co-operation with Festivals and Events Ontario. We have five key areas that we're working on with the organization this year. These are five areas that they have agreed to work on with us.

First of all, we're developing a classification system that will define festival events as to whether they are community-based, regionally or provincially significant, nationally significant or internationally significant. The reason we were doing that is that it will help establish a system that will assist organizers and potential funders to focus and sometimes rationalize levels of support in terms of dollars, volunteer development, training and quality standards for the festivals, all of which are extremely important for the festivals' long-term health and viability.

It will also help, once we have a classification system, to better organize information with respect to the festivals—their size, their nature, their seasonality, where they occur—for organizations on Web sites both by Festivals and Events Ontario and by the ministry itself.

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Along with Festivals and Events Ontario, we are also looking at the testing and adoption of an economic impact analysis model that Festivals and Events can use to establish reliable information used in developing sponsorship proposals, which is pretty key for diversifying their fundraising base. We are testing such a model this summer in the Ottawa region. It will be done under the auspices of the Ottawa Tourism and Convention Authority.

The third action we're undertaking is training at the workshop at Festivals and Events Ontario's annual conference, which is occurring next week. The training will be focused on how Festivals and Events can better improve both recruiting and working with volunteers in supporting their festivals and events throughout Ontario.

We are also engaged in researching, again with Festivals and Events Ontario, quality standards on both volunteer recruitment and the operations on the ground for festivals.

Finally, we're looking at a more effective way to gather comprehensive information on the total of Ontario's festivals and events for inclusion in Ontario's



tourism consumer information system. Festivals and Events Ontario is gathering the information and we will be working with them to consolidate it on to a Web page.

**Mr Gill:** One of the wonderful festivals we have in the summer, I suppose, is Caribana. Does that come under this, or is that more of a city-wide activity? What is the impact of that economically? Do we have any handle on that?

**Mr Allen:** Our ministry is involved with Caribana, along with the city. I know that over the last few years Jean has been our point person on that file. Jean, if you could talk about some of the impact that event has.

**Ms Lam:** As you are aware through your own participation at Caribana, it's probably one of the largest festivals we have, and it draws visitors from the US in particular. From the most recent study that the organizers themselves had, and it's not completely up to date, I think the economic impact is certainly in the millions of dollars. The ministry, through OTMP, has in the past provided support to help stage the actual parade on an annual basis.

**Mr Gill:** I think we are certainly poised, in the multi-ethnic community we've grown into, especially around Toronto, to be able to exploit some of that goodness. I think we need to address that sort of festival even more. Perhaps we need to explore what else can be done.

As the committee might be aware, I brought forward a South Asian Heritage Month private member's bill, which means the month of May is now considered South Asian Heritage Month, and we are looking at different venues. So I think that's something we need to work together on to see how we can exploit it.

I know that in light of 9/11, a lot of Americans, even in light of the current situation, are now using Toronto as their travel hub. They are avoiding, for whatever reason, the American airlines per se. Is there something we can specifically do to have them stay over and enjoy some of the—rather than just making Toronto a transit point, perhaps having them explore the city or the surroundings or northern Ontario perhaps?

**Mr Allen:** I'll make a couple of comments and then perhaps call on Bill to talk about some of the OTMP initiatives.

You mentioned taking advantage of the diversity of the population in Toronto. Actually, at the last OTMP board meeting they raised that as a question, and they have suggested that we investigate how we provide that as a focus for attracting visitors into the metropolitan area. So it's a good suggestion and the board is talking about acting on that. In terms of trying to attract some of the American travellers who are moving through the city, I'd maybe ask Bill if there are some things we could do as an agency.

**Mr Kenny:** As the deputy was indicating, the board is very much looking at this research that has been done describing what the make-up of Toronto is going to be down the road and how the tourism industry needs to create products that those consumers will want to consume. So I think we're going to look, in terms of our

product development area, at trying to create things of interest to a wide mix of people.

We have been working with the city of Toronto and we've done partnership marketing arrangements with the city and with Tourism Toronto over the last couple of years. One of the programs that started out a couple of years ago was called Mix 'n' Match and now it has evolved into something called Together in Toronto. That's a program where basically the hoteliers in Toronto invest in this marketing program. I'm very pleased to say the program has grown dramatically each year, and we're hoping this year will top the year before. Last year, we sold 11,000 room-nights, which, if you look at the average cost of a room in a hotel in Toronto being about \$200, that's a pretty substantial direct impact from the advertising that went on.

But in order to create interest, you can market to say, "Come here," but you also have to have specific products created to get people excited. So we launched a thing called Nutcracker Neighbourhood this year. The idea of Nutcracker Neighbourhood was to work with the business improvement area down by the St Lawrence Market and to create something connected to the National Ballet. Our longer-term strategy in that project is to look at the city of Toronto—and I was talking with Duncan Ross, the director for the city, in terms of the tourism area. We'd like to take the Christmas celebrations that are celebrated by various groups in Toronto, whether it's Chinese new year or whatever, and kick off with Nutcracker Neighbourhood at the beginning of the season with the National Ballet, try to connect it to the Santa Claus parade and then take each of the Christmas or Christmas equivalents, if you will, things that we can celebrate in the city of Toronto, which I think will really attract a lot of excitement, and also it really does support the multicultural nature of the city. It's a real bonus for us that we have this. We're probably one of the few jurisdictions in the country that has this, and it really is a job we have to do to both promote it and get the tourism operators ready to serve those customers.

**Mr Gill:** What sort of a marketing program do we have for our so-called cultural or theatre district? For example, as you know and as we all know, we are literally second to none; there's London, England, there's New York, there's Toronto and of course there's Paris. Especially in light of the lower dollar, in light of the safety we have in Ontario and in light of the neighbouring states, where we can promote our arts and our theatre district, I'm not sure what the marketing strategy is there.

**Mr Kenny:** Theatre is very much a real driver for us. We saw the impact on our tourism economy when Livent ceased to produce some of those productions. So we've been partnering for the last couple of years with Mirvish Productions, and we do put commercials into the US to attract them to the city and to come and see the production. The Lion King is one we've done recently.

It's not just about the large productions, however. We've launched a program called Just the Ticket, which



has been highly successful, and that is with a number of the small summer theatres around the province, with packages with the bed and breakfasts and other activities around the communities. We've put that into Food and Drink magazine and a number of vehicles in the US, and we're getting a very good response on that front. We also have arrangements where we've done specific things with the Stratford Festival to try to promote that particular festival. So in terms of cultural tourism, theatre is a strong driver and we have a number of partnerships around that.

**Mr Gill:** Sometimes I wonder if our tour operators even know what exists around the world or in other places, because there are hardly any so-called all-inclusive packages sold in Ontario—hardly any—whereas in the summertime, if they were to exploit that somehow and we were to market it, I think that would go a long way.

In terms of promoting Ontario in the overseas market, how are we doing that?

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**Mr Kenny:** We mostly do that through working with tour operators. We've had major arrangements with companies such as Globespan, which sells travel into Ontario. We have representatives in Germany and the UK, for example. Those are people who are there trying to make the connections with all the tour operators. We provide them with product information and some information on new things that are going on in the province. They then take that information and get that to the tour operators. In some of the arrangements we have, it's put into the actual tour operator magazine, so it goes out in their language, whether it's German or Japanese, whatever it is. There's a comfort in purchasing through their tour operators in those overseas markets. We don't do a lot of television advertising, that kind of thing, in those overseas markets; it's very expensive. We find the best way is through building relationships with tour operators.

**Mr Gill:** I think one thing we could explore is working with our Canadian embassies. Maybe we're doing that; I don't know.

**Mr Allen:** I think there are a couple of areas that we could explore; one is working with the embassies. The other would be to work with the diverse communities here in Ontario to link back with the country they emigrated from. That's something that I think could work to our advantage.

**Mr Gill:** Yes. No further questions.

**Mr McDonald:** I want to go back to festivals, which you spoke of earlier. In my riding we have a heritage festival, Voyageur Days in Mattawa, the Maple Syrup Festival in Powassan, and le Carnaval, which is the French community winter carnival which just ended. How can these organizations partner with the Ministry of Tourism to promote these festivals in the north, and how might other organizations promote the four seasons so that we have something in the fall and something in the spring as well to be able to succeed in northern Ontario?

**Mr Kenny:** The program that we have is called the tourism event marketing program. That program provides funding of up to \$50,000 for Ontario-based events. The purpose of the funding is not to help the operating costs or the creation or the establishment of an event but the promotion of the event.

I think it's been a very positive program in that a lot of the event organizers are volunteers trying to put together a very large event in their community, so a lot of their focus is on getting the event going. This program is saying, "OK, now that you've got this track record of running this event, you need to promote it outside of the community and get people to come in, stay overnight, shop, buy." So it moves from being a very local community event to more of a tourism event that is creating overnight stays. That's the intention of the program.

How people can find out about it is they can go on our partner site; the OTMP has a partner site. The TEMP application is one of the areas with the highest hits on our partner site. Basically they can come in and get the application on the Web, they can complete the application and send it in to OTMP, and we respond to the applications as they come in. We fund anywhere from 100 to 120-odd festivals across the province each year. It's a fairly open-ended program in the sense that it's reacting to applications coming in to us. As we look at the applications, we assess the media buys that they propose and we'll purchase some. We hope they use their influence with their newspapers and people they know, where we might not have as close as a relationship, to get additional free advertising tossed in as part of the arrangement.

**Mr McDonald:** I know from experience, if I pick two that I'm familiar with—the heritage festival, which is in the city of North Bay on the August long weekend, and Voyageur Days, which is in Mattawa and is the weekend before—the Mattawa Voyageur Days festival has a budget of about \$300,000 and it received I think about \$14,000 or \$15,000 in funding to help promote it. When you look at the heritage festival, which has a budget of, say, \$1.3 million, it received \$17,000. A smaller event, the maple syrup festival in Powassan, approached the ministry and received \$2,000. I'm wondering: does northern Ontario get a fair shake compared to southern Ontario when it comes to being able to promote festivals? I've seen some of the amounts of money that are going into southern Ontario festivals, and they seem to be a lot bigger than in northern Ontario.

**Mr Kenny:** What I would say on that is that the way we assess applications as they come in is basically that we look at the media buys. It's not a question of how big the festival is, per se; it's what they're bringing to the table in terms of what they're going to actually purchase. We have large festivals that don't budget very much at all to advertise. We require their media plan and assess their media plan in terms of what impact we believe it will have. That is how the decision is made on \$17,000 or \$2,000. In terms of equity, I can tell you that in 2002-03, the breakdown was that in eastern Ontario we funded 20



festivals; in southwestern Ontario, 23; in central Ontario, 16; in the GTA, 21; and in northern Ontario, 12.

One of the points that was raised by the auditors, and that we are responding to, has been trying to push into the shoulder season. One of the challenges, when you look at the number of summer festivals in relation to the number of winter festivals, is that there are very few winter festivals, and some of them are fairly weak. So we are putting a real emphasis on trying to target festivals in the winter that we can boost, and we're working with our field services offices to do that. We're asking them to look in their regions and try to identify strong festivals that may not be aware of the program or haven't come into the program or are confused by the program, and try to work a little more proactively than we have in the past.

I think the point has been that while we think the investment is good for that particular festival in that area, I think the auditors are saying, "Let's look at the program overall and what impact it is having." So we'll be working with the investment and development office in terms of how we might want to change the program down the road so it's a little more strategic.

I also hope that if our presence in northern Ontario is greater in the next little while, they'll feel more comfortable partnering with OTMP and maybe the number of festivals that come forward will increase over time.

**Mr Allen:** I think this is also another area where we need to be working across ministries and working with MNDM with their northern heritage fund. They have funded some tourist initiatives, and we want to make sure that what we're doing is complementing what they're funding.

**Mr McDonald:** Am I done, Chair?

**The Chair:** It's 20 minutes, but if you have one final question, just go ahead.

**Mr McDonald:** Is there a way we can assist these festivals in their application process? When I dealt with one of them, they said they spent \$50,000 on advertising and maybe that's why they only got X dollars. But the media is very good in northern Ontario—in our area, anyway—and they were contributing something like another \$100,000 worth of advertising to promote the festival through all its networks in all of Ontario. I'm wondering if maybe the festivals didn't shortchange themselves and didn't include the—

**Mr Kenny:** That's a possibility. With 100-and-some applications that our staff reviews, it's possible. I think the partnership and sales staff we have working in northern Ontario may be able to help them work more closely. We can certainly try to work with our field services more effectively in terms of getting the word out on what is required.

**Mr Allen:** Bill mentioned the partnership we have with our field service and with MNDM's field service. That may be something we specifically want to explore with them.

**The Chair:** Thank you very much.

With that, we will recess until 1 o'clock this afternoon.

*The committee recessed from 1200 to 1304.*

**The Vice-Chair:** Recess is over. We now move to Mr McMeekin.

**Mr McMeekin:** Two quick questions: in some of the supporting material, there was reference to festivals. I think part of the preamble talked about the feds and how they were adhering to certain standards and how they had identified other markets: Mexico, Taiwan, Hong Kong, South Korea, Brazil. In the context of that discussion, there was some reference to federal festival funding. I noted with some interest that the federal festival funding for the province of Quebec was \$36,720,000, and for the province of Ontario, it was \$8,834,000, which is about one quarter of the funding for Quebec.

My question is, have you had discussions with the federal government about what Quebec is doing so much better than Ontario to lasso approximately four times the funding we're getting here? Are they doing something significantly different that we should be copying, talking about best practices, to lasso more of that federal money?

**Mr Allen:** I'll make a general comment, and then Michael will get into some of the specifics. To answer your question, yes, we have had discussions with the federal government about a wide range of topics on tourism and also with the Canadian Tourism Commission, the CTC. I'll turn it over to Michael to get into some of the details of the festival funding.

**Mr Langford:** The federal involvement in festival funding was one of the issues that we looked at under the festival study. When we saw the way it broke out statistically, not only in comparison to Quebec and Ontario but across the country, it did raise a number of concerns with us. Of course, our festival partners were also very concerned. We undertook on their behalf, and of course on Ontario's behalf, to speak to the regional director here in Ontario for Communication Canada, the people responsible for the majority of the festival funding, and asked them to attend a special workshop and meeting with all the members at present at the Festival Ontario annual meeting next Thursday here in Toronto. They are sending a team from Ottawa from Communication Canada to go over the process and the criteria and to talk to the festival event organizers here in Ontario about how they can take better advantage of the program. We did show them the results of our report, and I think it would be fair to say they were suitably impressed that they thought they had better make a special effort in Ontario for next year's round of applications.

**Mr McMeekin:** So there's nothing that Quebec is uniquely doing which garners them this additional funding? I'm giving you one you can hit out of the park. There are some friendly questions here.

**Mr Langford:** I can't say for sure, but as far as I understand, it's the same application form across the country for funding. Whether or not they're treating it differently in Quebec, from the festival and organization best practice, we wouldn't be able to say.

**Mr Gill:** Wait till 4 o'clock.

**Mr McMeekin:** We were just kidding about that, weren't we?

Finally, my last question for the day relates to heritage sites. There's reference in the auditor's report to—and presumably this is something we can all agree on: that heritage is important and if we're going to protect and invest in nothing else, it ought to be those precious heritage sites that have been designated because they're so meaningful to so many people. These 150 heritage buildings are described as irreplaceable and in need of some investment. Apparently, there's reference in the 2000-01 capital plan to the ministry to—quoting the ministry document: “Without multi-year capital investments for rehabilitation and improvements, many of these historic sites will have to be closed.”

I was struck—awestruck, as a matter of fact—with how little money is being invested in the maintenance of these heritage buildings. I'm wondering if you can comment on what plans you're developing and what allocation of resources you'll be petitioning for to maintain these precious buildings.

**Mr Allen:** As I mentioned this morning, the heritage sites come under the jurisdiction of the Ontario Heritage Foundation of the Ministry of Culture. I'm actually meeting with the executive director from the heritage foundation next week to talk about a couple of things. One is, how can we help in preserving some of the sites? Also, how can we take advantage of those sites from a tourism perspective? How can we package them in such a way that it benefits the heritage site but also can have a positive impact on tourism?

1310

**Mr McMeekin:** There was a reference in the auditor's report to the need for a condition assessment and an assessment of value, and that neither had been completed.

**Mr Allen:** I think you're referring to the facilities we have as part of our agencies and also our attractions. We are taking a long-term approach, where we're looking at what needs to happen to refurbish those sites and how we can achieve that over the next several years. So we're undertaking a study right now to look at the state of those facilities and what's needed to refurbish them.

**Mr McMeekin:** Short-term, day-to-day repairs are referenced as being desperately needed. I'm assuming those are going to be part of your oversight.

**Mr Allen:** We provided \$6 million this year to deal with some of the areas that require upgrading and regular maintenance, with a particular focus on health and safety issues.

**Mr McMeekin:** Wasn't the estimated minimum requirement \$30 million? You're allocating \$6 million.

**Ms Lam:** As the deputy said, in the current fiscal year we allocated \$6 million for agencies and attractions. I should point out that the ministry does not fund some of the other agencies' capital repair budgets, such as the Niagara Parks Commission. They're self-funded. So it was \$6 million, and we've made some submissions as part of our business planning process on which we've not yet received a decision for the coming year.

**Mr McMeekin:** OK, we'll monitor that. Thanks.

**Mr Patten:** Welcome back, folks. I have a couple of comments, and then I have a question. Mr Langford, it's in your area, if you could stay. I'm past president of the Canadian Tulip Festival in Ottawa, as you know—or you may not know. In its growth period it was the Festival of Spring, and it had to be remoulded and reshaped. It now has a budget of over \$5 million, with close to \$4 million in cash, and it's growing in its attractions. It's in the off-season, and I have sat in some of the tents in the beginning of May when it was 3 degrees. Of course, that hurts evening programming, which is the biggest source of revenue for the festival, and the last three years have been exceptionally cold. It has been hurt and damaged.

But just to follow up on a few other questions from the government side, it seems everybody has a festival or some event. We know they are a volunteer effort. They're non-profit, voluntary organizations. They get the support of the community, and they get five to one with media and one thing or another, and if they're well-managed, they really are one heck of a great investment. The tulip festival got 50,000 bucks for its program last year, and it's pleased with that.

But I was interested in Ms Lam's correlation that a dollar invested in advertising, presumably marketing somewhere too, returns \$12. I know that just in terms of the festival here, in a single year \$4 million goes to the feds and \$2 million goes to the municipality—this is all in taxes by virtue of its activities. So while the \$50,000 is well appreciated—really, it's tied aid—it pales in comparison to the event itself.

It's going through tough times. It just had to ask the municipality to back its borrowing to have some cash flow because of poor receipts at the gate for all its entertainment and that kind of thing, which it has little control over because that's the weather. But that's not my question.

Then we have—and I'm going to ask you if you would follow up on this, because I think it has serious implications for other festivals or other voluntary organizations. In terms of the definitions of sponsorship and in-kind finance, the Ministry of Finance is saying to the tulip festival, “You owe us the PST on the value of your in-kind contributions,” even though they're services; most of them are not in cash. So if somebody says, “I'll help you write your marketing plan,” or something of that nature, it's a service and it has to be accounted for, and we try to do that. I shouldn't say “we” because I'm not part of it; I'm just thinking historically. But I do know that they've been hit with that. If that were to go across the province, the government would have one hell of a storm, I would imagine: all the foundations and children's hospitals and organizations, and you're saying that for in-kind contributions you're going to ask for PST.

If they were to pay PST, they would be paying back \$160,000, which is five times plus the contribution they received from the provincial government, in spite of contributing \$2 million. There's something wrong with the picture.



I don't know whether you know anything about it at the moment or whether you might look into it. I say this truly because when I think of all the festivals or events that take place, which are good things, if that goes across the board we're going to have one hell of a mess. We're going to see a lot of festivals go down the tubes.

**Mr Allen:** I'm not aware of the issue you're raising, but we'll definitely follow up, no question about it.

**Mr Patten:** Thank you very much.

**The Chair:** Mr Crozier.

**Mr Bruce Crozier (Essex):** I want to go to page 279 of the auditor's report, under "Management of Consulting Services," and ask at the outset, how many full-time employees does your ministry have, roughly?

**Mr Allen:** Including our attractions, it's around 400.

**Mr Crozier:** Under "Management of Consulting Services," we see that there were more than 200 consulting contracts entered into. In the preamble, the auditor proposed that the ministry and the corporation engaged management consultants for a number of reasons, including lack of in-house expertise, the need for independent review and the need for resources over a short period of time. When we talk about these consulting services, I wonder if we really are having part-time employees engaged under the guise of consultants, because I see we spent some \$9 million on consultants last year. I'll have you respond to this after I just point out a couple more of the auditor's observations.

They selected a sample of contracts, and the comments on some of these were:

"In several instances, the contract terms and conditions had not been reviewed and approved by legal counsel to ensure the interests of the ministry and the corporation were appropriately protected."

"Several contracts were awarded directly to the vendor without competition even though the ceiling price exceeded the tendering limit of \$25,000." It went on to say, "Other contracts with a ceiling price of less than \$25,000 did not include, as required, anticipated expenses."

The auditor "observed situations where projects were split into separate contracts each valued at less than \$25,000, thus avoiding open competition requirements."

"In several instances, consulting services had commenced prior to the contract being signed or finalized, and in two instances, no contract was prepared at all. In another instance, a \$40,000 contract extension was signed even though the original contract had expired."

Even though you may justify the need for consultants—over 200 consultants—how could this possibly happen? How could your full-time employees not know that they should follow the Management Board guidelines in these instances?

1320

**Mr Allen:** As I was mentioning in my opening remarks, we haven't done as good a job as we should have in ensuring that, first of all, our managers knew what the directives and the parameters were in engaging consultants. We've since ensured that they know what the guidelines are and that they will be adhering to the

guidelines. I mentioned that in the ministry, we held a training session for the managers, specifically looking at using consulting contracts and going over the findings of the Provincial Auditor and pointing out where there were problems and where we needed to take some action to rectify. I also mentioned that the OTMP will be doing the same thing next week. They will be holding a session with their managers to review what guidelines should be followed.

The other thing I mentioned was that we have reduced the number of consultants we are currently engaging. The OTMP board has placed some restrictions on the agency. They must have prior approval before they engage consultants. From the ministry's perspective, we have looked particularly at those contracts where it may have started out as a short-term bridging contract but it has turned into a longer period than it should have.

I would say that we have taken the findings of the Provincial Auditor to heart, and I think we've addressed all the issues he has raised. As the final comment, we are developing a tracking system so that we can see what contracts are being let, why they are and the duration of them.

**Mr Crozier:** I noted your comments in the opening remarks, and again, now that you're going to educate—I can see new managers coming in on the process for engaging consultants. But I would suggest that the fact that several were split so that they were under the \$25,000 limit would indicate to me that they know full well how these things work and that there was an intent to go around them. It wouldn't be as though, "I don't know how to engage a consultant, and I don't know about the \$25,000 limit." It appears as though somebody knew full well what those limits and rules were and intentionally circumvented them, wouldn't you think?

**Mr Allen:** We've made it very clear in our discussion with managers that the splitting of contracts is not appropriate in trying to get around the rules. So we've made it very clear that that's not an appropriate approach in contracting consultants.

**Mr Crozier:** So had the auditor not pointed that out, would we expect that it would have gone on?

**Mr Allen:** If we were reviewing the approach to hiring consultants, we would have thought that an inappropriate approach.

**Mr Crozier:** OK, I think my point is made anyway.

**The Chair:** With that, the time is up, if we're doing 20-minute rounds.

**Mr Crozier:** Chair, are you sure you're keeping track of time? The former Chair—

**The Chair:** I'm keeping track. The former Chair told me when to cut it off. So there you go.

**Mr Martin:** Given that we didn't agree to call the Ministry of Northern Development and Mines forward, I'd like to kick off this round by asking the committee to share with us some of the goings-on with regard to the Northern Ontario Tourism Marketing Association. That association is referenced very clearly in the auditor's report. His comment is, "The ministry informed us that

the association is no longer in operation.” If we’re going to do our work properly and effectively, I think it would behoove us at the very least to draft a letter to that ministry, asking some very pointed questions. For example, in its term of operation, how did it handle its affairs? How did it go about letting out contracts etc? Exactly what happened in the transition from the Northern Ontario Tourism Marketing Association to the new corporation? What happened to the money? How was the money spent when they were in operation and what happened to the money that was left?

**The Chair:** Are you moving a motion at this point in time?

**Mr Martin:** Yes.

**The Chair:** What is the motion?

**Mr Martin:** The motion is that the committee would send a letter to the Ministry of Northern Development and Mines asking for a status report on the Northern Ontario Tourism Marketing Association, and then go into some detail in that as to how they spent their money. In light of the auditor’s critique of the Ministry of Tourism and the way it operated, how would it stand up? That’s the tone and flavour of the letter.

**The Chair:** A motion has been moved. Is there any discussion on that?

**Mr Wettlaufer:** Chair, given Mr Martin’s interest in this issue, I would say that he is quite free to write to the Ministry of Northern Development and Mines and ask for an answer in that regard. I don’t think it’s necessary that this committee go through the hoops that he wants to.

**The Chair:** Mr Patten?

**Mr Patten:** I hope I might transmit a bit more of a generous spirit. I think it’s in order. It happens quite frequently, Mr Wettlaufer, that we do follow up, and this is in line with the auditor’s report. There is obviously a vacuum of information and it would be perceived to be perfectly normal for this committee to send a letter asking for some clarification or detail on a particular situation.

If I can make a helpful suggestion, I would suggest that the member submit a draft letter for the consideration of the committee, to be sent on behalf of the committee. I think it’s stronger, frankly, if it comes from the committee, and I think it’s worthy of seeking that information.

**Mr Martin:** There are 11 ministries identified by the Provincial Auditor involved in the delivery of tourism services across the province and this is only one of them. We’re not going after all 11. But in this instance we had, obviously, some problem with a ministry’s delivery of a certain product, and all we have in reference to that here is, “The Ministry informed us that the association is no longer in operation.” I think it behooves us, and not just me—I would think everybody on the committee would want to know what happened to that association, why it is no longer in existence and what it did when it was in existence with the money that it had. What did it do that created such a problem that it was put out of existence,

and then what happened to the money that was left in that account? Where did it go?

**The Chair:** Any further discussion?

**Mr Martin:** I think we should all have an interest in that, not just me.

**Mr McDonald:** Chair, maybe just a point of order to ask for some direction: when all three caucuses chose the three different areas of the auditor’s report that we wanted to review, can the NDP at this point say, “Fine, we have more interest in this area than one of the other ones we picked, so we’ll drop one of those off and bring the one forward that Mr Martin wants to bring up”?

**The Chair:** There may be a connection there. Some people may agree that there is a connection there, others may not. But the fact that a caucus picks a particular area doesn’t give that caucus any greater right or interest in the discussion of that area than the others. Once the nine areas have been determined, it’s up to the committee as to how it wants to deal with those nine areas. What has been happening in the past is that we take one day for each area and the ministry officials come here to discuss it, but who picks that area is totally immaterial in the long run.

**Mr Patten:** If I might add just a bit of background on the committee. Choosing the areas doesn’t preclude the committee, as a result of hearings and what may unfold during committee, from then either returning and asking for additional time at a later date, asking for reports, choosing to send a letter—all of those. Or it may lead to other ministries, as in this case, that played a role but not the major role, let’s say, but some members or the committee may say, “We think there’s an area there we’d like to pursue.” That doesn’t preclude getting together to decide which three ministries, because those can always be added. In other words, when we come back to the House, we’ll be finished with this list and one of the first items of business will be, “Where do we want to go from here?” We have to write a report, but what about other hearings with other ministries? In other words, I’m trying to say that our committee has a fair amount of flexibility.

1330

**Mr Martin:** The Provincial Auditor made some very specific recommendations in this report as to the streamlining and the clarifying of roles and perhaps combining responsibilities. I think it behooves us to try to get a handle on just exactly why he would make that recommendation and perhaps to be able to make some recommendations ourselves, by way of this committee, as to how that might more effectively be done.

Perhaps the auditor could clarify for us here: did you look into those other delivery vehicles in those other ministries in order to make the recommendation that you did, and in your mind, would that then call for us as a committee to have to look at that as well to fully understand what you’re saying and to support your recommendation?

**Mr Peters:** Firstly, the reference to the marketing association is clearly part of this report. It’s not a separate report that we issued to the Ministry of Northern



Development and Mines. Our concern, and we mention it in this section on pages 263 to 265 onward—we are talking specifically about the coordination of tourism activities and we cite two ministries in terms of that coordination. The first one we're citing, as it happens, is the Ministry of Northern Development and Mines, and we are also citing the Ministry of Agriculture, Food and Rural Affairs. We are using that as an illustration of where in the taxpayer funding of the tourism industry there are risks of overlap or duplication. That's the basis on which we have brought these in, because our recommendation specifically relates to the fact that the ministry should—and we are considering this ministry as taking a lead role in this—minimize the risk of overlap and duplication between its programs and services of those of other ministries and agencies. That is the context in which we have brought this.

It does not mean that we were able to expand our audit scope to go into the individual ministries and assess how they were performing their activity in this tourism area. It was just that we brought out signs of where there may be the risk of overlap and duplication. That would be my comment on why we brought it in.

**Mr McDonald:** Maybe just for further clarification, when Mr Martin asked about this program, did the auditor say earlier that this was a not-for-profit organization and he really wouldn't be able to audit it?

**Mr Peters:** Yes, we did, because the association is a private sector association. What the question should be aimed at is really how the Ministry of Northern Development and Mines managed its relationship with that particular association and what actually happened when there were difficulties experienced in coordinating the activities. That would have been a ministry responsibility in that area. So if the questions that followed up from this dealt with the activities of the ministry, that is something we could look at and that is something the ministry can ask questions about, if the questions are directed at the association, firstly because it's no longer in operation and there may not be officials who could respond—that's probably one of the constraints—but on the other hand, the relationship between the ministry and that association is something that could be explored. We can't answer your questions on that.

**Mr McDonald:** One other point, Chair: is there a mechanism when we put these motions forward that they're in writing, or can we see them? Then we can at least consider what the motion is.

**The Chair:** A copy is being made of this particular motion and we can perhaps deal with it later on once we all get a copy of it, if that's all right for everybody?

**Mr Martin:** I liked the approach of the auditor to the kind of question we might want to put. I thought it was well worded and I'd be supportive of that approach to this ministry in terms of how they manage the relationship and what problems gave rise to their putting an end to that particular organization.

**The Chair:** Right now a copy is being made of your earlier motion. If you want to change the wording of that,

then I suggest it be done first and properly placed here, so that at least we all know what we're voting on. Maybe we can leave that in abeyance for a few moments, until we get that sorted out, and then we can deal with it at the appropriate time.

**Mr Martin:** Sure.

**The Chair:** Is that agreeable, Mr McDonald?

**Mr McDonald:** That was the point I was going to make. It's not really appropriate that the Provincial Auditor do the motion; it should be the member putting it forward. But I agree with you 100%, Chair.

**The Chair:** The members make the motions and the members vote on them; the auditor does not.

**Mr Peters:** I said I'm just an adviser.

**The Chair:** He's just an adviser.

**Mr Martin:** That was good advice.

**The Chair:** OK, Mr Martin, you still have the floor for another eight minutes.

**Mr Martin:** I've got a couple of other questions. It's following up on where I left off before lunch, which is in this area of investment in infrastructure. It's one thing to market going to northern Ontario but if there's nothing to go to, then what's the point? I mentioned Mount Antoine in Mattawa, near North Bay. I mentioned some of the facilities in Thunder Bay that are no longer in existence: the big ski jump that so often was used as an attraction that brought people to northwestern Ontario to watch and to participate.

In my own community we have three very important tourism engines. One is the Bush Plane Museum, which struggles from year to year with operating. It's a completely volunteer operation and has done tremendous work in fundraising, but it struggles with continuing to be able to operate, to pay for the lights and have some people there to welcome guests etc.

The tour train is another one. It brings in probably 100,000 people a year, and it's multi-seasonal, winter and summer. The two companies that have owned that line and enterprise have at various times indicated some difficulty financially in keeping that going. It would be a terrible loss to our area. That is something you see in almost every magazine or publication that goes out for Ontario: "Come and ride the Agawa Canyon tour train."

Also, we have a new owner of Searchmont. He's having a great year, by the way. The snow has been fabulous, and because there is no snow 10 miles south of us, into the States, we're getting all the Americans coming in. He's really doing well and so are all the hotels, restaurants and everything in town. But he needs help with infrastructure—water, sewer, electricity and a number of other things—as does the community of Searchmont if they're going to take advantage of that very wonderful enterprise that's there.

My question is, has any thought been given to your ministry becoming involved in some way, giving leadership, partnering, perhaps using some of the capital funds that have been put together by this government to assist those kinds of enterprises so that they not only exist but thrive and become the vehicles we know they

have the potential to be to attract tourism into northern Ontario?

**Mr Allen:** I'm going to make three or four comments. First of all, I mentioned this morning SuperBuild SCTP—sports, culture and tourism partnerships. We funded 99 projects in the north for about \$27 million, and that's been matched by the federal government. So there's a little more than \$50 million that's gone in in the last—what, Michael, year and a half?

**Mr Langford:** Committed over this last eight months.

**Mr Allen:** In addition, the Northern Ontario Heritage Fund has, over the last seven years, invested about \$113 million in tourism-related projects. Not all of them would be infrastructure; some of them are operating.

I guess the other thing that we're hoping through the revitalization of tourism promotion in the north through the OTMP is that if we can attract more people to the north, we would like to see the maintenance and the refurbishing of attractions facilitated by the profit coming from those facilities. So I think there is some work to be done through the OTMP to attract more people to the north, to come up with a good, comprehensive promotional package.

1340

The final comment I'd make is that you mentioned infrastructure, and this government has funded infrastructure in the north, whether you're talking about highways or water and sewage. So it all ties together. But the underlying objective from our perspective is to try to increase the number of visitors to the north so that it stimulates the economy and stimulates those particular attractions so that they can maintain the infrastructure and refurbish that infrastructure.

**Mr Martin:** I appreciate that. If you had a chance, perhaps you could share with me at some other time some of the projects that you have funded.

**Mr Allen:** We would do that.

**Mr Martin:** That would be really helpful. It's a bit confusing, because we know that you are putting money, for example, into the whole snowmobiling infrastructure in the north and trying to build up that piece, a very exciting possibility. But I think, and I have this conversation with the city all the time, it's one thing to look at the new stuff; it's another thing to make sure you don't lose what you already have. I mentioned a few examples of pieces that we've lost and pieces that could be lost if we don't pay attention, that will be really difficult either to replace with something else or to recapture if they in fact go down. One of the reasons that Sault Ste Marie as a community gathered around Searchmont for two years and kept it going was that we knew if we let it go, the loss in the marketing we've done and the deterioration in the actual equipment itself and everything would have been difficult to build up. So I'm interested in seeing and knowing more about what you're going to do to make sure we protect what we have as well as building on the new stuff that I know you're investing in and that continues to be very important for northern Ontario.

By the way, I do want to thank you for placing that office in the Soo. It's really important. We've lost about 6,000 of our citizens in the last seven years because the economy has shrunk up there, and this will be really helpful. I want to thank you for that.

Getting back to a comment the auditor made about your own infrastructure, he talked about how, and I think we've all recognized this, when you go to the States and you drop in to some of the parks and rest areas and everything, they are well kept, well maintained. They speak of a jurisdiction that's interested in having more people come. When you go into a lot of our facilities and attractions, they are not always as well kept or maintained or as attractive as they could be. He suggests in his report that more needs to be done there. Do you have plans there that perhaps we should know about?

When you drive, for example, from Sault Ste Marie to Thunder Bay—it's about the same distance as driving from here to the Soo—there are lots of rest stops etc that don't give you a good feeling when you walk in. We've often said that needs to be addressed if we're going to continue to attract tourists and give them a good experience when they come up.

**Mr Allen:** I can speak for the attractions that are part of our ministry. I mentioned this morning that we're taking an overview or a look at all our attractions, determining what needs to be spent not just to bring them up to their past conditions but to refurbish them so that they continue to be an attraction that will bring paying customers to them. We hope to develop a multi-year plan so that we can cover not just the maintenance but the revitalizing of those facilities.

**Mr Martin:** That's all I have. I'm going to write my letter now.

**The Chair:** OK, thank you. To the government caucus, Mr Wettlaufer.

**Mr Wettlaufer:** I must say that I was terribly disappointed that Mr Martin didn't thank me for the establishment of the office in Sault Ste Marie, because I was on the committee that made the recommendations. However—

**Mr Martin:** When you were up there, how come you didn't come over and have coffee with me? I would have thanked you personally right there and then.

**Mr Wettlaufer:** However, I will say it had nothing to do with you, Tony. I'm just kidding.

*Interjection.*

**Mr Wettlaufer:** That was not meant as a bad comment. It had nothing to do with him, that's all.

Anyway, Deputy, the travel information centres that we have at various border points throughout the province serve a very vital function. I can't even remember the number there are. I know there's one in—

**Mr Allen:** There are 18.

**Mr Wettlaufer:** In each one of them I believe there is a travel information counsellor. I wonder if you could give the committee a detailed account of what their role and their purpose is. I know, but I think maybe the committee would like to know.



**Mr Allen:** Sure. You're certainly right that these are an important component of our tourism attraction. Actually, one of the key roles they play is to try to extend the stay of visitors, particularly those who come from the States. We do have trained counsellors to help them in selecting where they would like to spend their time here in Ontario. Michael Langford is in charge of those centres, and I'd ask Michael to fill in some of the details of how they operate and what the key objectives of those sites are.

**Mr Langford:** I think your question was related to the role of the travel and information counsellor. I should perhaps, just by way of background, note that we have 43 counsellors permanently, and those could be either seasonal and/or full time. We also supplement the number of counsellors each year with about 102 students—102 coming this year. So at the peak of the summer season it's a fairly substantial force of people.

We view them as the hosts whom our visitors to the province will meet first; they often give the very first impression of the province. They are trained in a super-host program, and they have a variety of different duties. Their duties would include doing customized trip planning and itineraries. Their knowledge of local tourism attractions, events, attributes, assets and accommodations is fairly extensive. They have a very good background in regional and provincial assets. They are a good guide to, I think I said, trip itineraries but also trip planning in terms of sequencing.

They also provide a special link back from the operators within the areas that they serve out to the consumers in terms of what's happening in the most recent sense that the publications really can't keep up with in some instances. They're the human face of Ontario for many people, and I think their work has certainly in many ways contributed to, as the deputy was saying, giving ideas to tourists on where else they may go in terms of their plans, and in that regard we hope they extend the stay of the visitor and increase the number of times they may return.

It also gives us a chance, in a very human way, to speak with the guests of the province and find out what they're feeling and what they're thinking so we can take that into consideration and take that back to operators within those regions.

**Mr Wettlaufer:** Thank you, Michael. This ties in with what appears to be a worldwide marketing strategy vis-à-vis tourism, that every tourist, especially those who are 40 and up, now views tourism as an experience. This is what they are searching for, and this is how we keep them in a locality or in the province for more than one night. Of course, this is behind the strategy that we had.

Mr McMeekin asked earlier what kind of leadership was involved in tourism, and I would like to say that I thought there was quite considerable leadership shown by our government when the OTMP was established with a mandate to increase private tourism. It was directly through that that we had a benefit to the Hamilton area, next to his riding, of \$2.25 million in the cycling cham-

pionships. For that reason, we have also given the Hamilton area \$350,000 to bid on the 2010 Commonwealth Games.

**1350**

Given that people are overwhelmingly beginning to search for this experience in terms of their travel plans, in terms of their accommodation, in terms of where they want to go for their next vacation and the one after that, what else are we doing insofar as agencies and attractions are concerned to assist them to maintain or improve their infrastructure?

**Mr Allen:** If I'm to interpret your question, you're asking how we target a changing population and the changing needs of those populations.

**Mr Wettlaufer:** The agencies and attractions themselves have changing infrastructure needs, certainly in the next couple or three years. I believe we are looking down that road to assist them, to allow for them to plan for the changes the world populace is looking for.

**Mr Allen:** Actually, we just recently updated a database we have, a study done a number of years ago that looked at the type of visitors that would come to Ontario. We've just updated that, looking at what that same group would look like 25 years from now and speculating on what types of attractions, and then what changes those attractions should make in their infrastructure to accommodate a different clientele with different needs. We've just done that research, and so we have yet to look at what the implications are. In fact, at the last OTMP meeting, the board talked about, what does that mean for tourism in Ontario, and what should we be doing to prepare for that shift in the demographics?

**Mr Wettlaufer:** OK, thank you.

**The Chair:** Anyone else? Mr Hastings.

**Mr John Hastings (Etobicoke North):** I have a couple of questions regarding coordination with your ministry and Toronto Tourism. You talked about a Web site earlier that you were trying to put more events on, all the diverse community festivals and that sort of thing, and you're looking at off-shoulder tourism. Would those include the various balls that the different communities have?

**The Chair:** The what? The balls?

**Mr Hastings:** Yes, the fundraisers. If I were a tourist here, if I were a Brazilian, I wouldn't even know, because I'll lay you a dollar to a doughnut that the Web site you're working on isn't going to be connected into all the major hotels so that when they access information about what's going on here, if they're on a weekend arrangement and they happen to be Brazilian—I mention Brazilian because it's the largest ball in the world, larger than what they have in São Paulo.

**Mr Allen:** I'll make one comment and then I think I'll ask Bill to comment from the Web site perspective. As I mentioned this morning in reference to Mr Gill's question around the diversity of the population in Toronto, we haven't done as good a job of taking advantage of opportunities, and I think that's what you're driving at. There are events in those various communities that we

need to profile a little bit more. As I said, two things were discussed at the last OTMP meeting: what are the tourism interests of our more diverse population, and then what things happening in their communities might attract tourists from other locations or maybe keep tourists here a little bit longer, if there happens to be an event that might be of interest to them? Bill, maybe you could comment on how that might be linked into your information service.

**Mr Kenny:** Certainly in terms of the Web site, where we have provided funding to one of the festivals, the requirement in the agreement is that they are linked into our Web site. For sure we don't want to promote things that aren't up on our Web site. In addition to that, all events and festivals in the province are encouraged to put their information on our Web site, and it can be put on for free. So all of those types of activities can get basically free publicity by being on our Web site.

I agree with the deputy's comment that we haven't done as well as we could have in working in the various neighbourhoods and communities of Toronto, for example, to get some of the ethnic festivals and things like that that are going on. Certainly, based on the discussions with OTMP board, they are looking to us to start paying much more attention to that type of product to see what we can do around it. To some extent, we've been supporting a number of the festivals that have been seen as more traditional drivers of the tourism business in certain communities in the province. In light of the population demographic shifts, we're going to have some serious discussions with the board on how we should shift some of our priorities.

**Mr Hastings:** Will those conversations, then, include getting the hotels on-line? For most hotels it seems to be sort of a hit-and-miss proposition as to whether they are integrated with your Web site.

**Mr Kenny:** In my conversations with Duncan Ross, who is involved with the events group for the city, we are talking about how we can work more closely together to make sure not only that the events are provided support, but also that they're connected to the other activities going on in the city, including hotel packages. Very much what we like to do with the program is support the promotion of the event, but as part of the event, we encourage them to have packages so that somebody can phone one number and say, "I want to go to the festival and I want a two-night package to stay in a hotel and I want to go to a theatre production the next day," something like that. Our whole strategy is very much trying to package festivals around the other things that you can do in the community.

**Mr Hastings:** On the issue of conferences that people come here for—the Metro Toronto Convention Centre and other places—does the province get advance notification of every upcoming convention so that you can have a provincial presence in the program? Why I ask that question is that we recently had the International Association for Jazz Education here. If you go back and look at the program, there's no provincial presence in it.

There were only about 7,000 people here. It's the middle of the winter. It's your dead season, basically. How did we miss it?

**Mr Kenny:** Actually, we didn't miss it. We actually were there. We had members of our board there, and a separate launch of our jazz product for Toronto happened at that convention. So we were aware of it. At this point in time, we're not aware of every convention that's coming to the city. We do work with various convention centres across the province, and we have a meetings, conventions and incentive travel committee, which includes most of the major convention centres in the province. We're helping them try to promote all of their convention centres and to lure business into their convention centres. Last year, we supported the MPI, which is a major convention and which resulted in a significant convention coming to Toronto. I think IBM was the one that came—I'm sorry, it was Microsoft; I don't want to get that wrong. A major convention was lured into the city as a result of our efforts. So we do work with that sector, but I don't know of every convention coming into the convention centre in advance.

1400

**Mr Hastings:** Let me ask you this question: how many in your ministry have ever considered the Legislative Assembly buildings as a tourist site? The reason I ask that is if anybody comes over here, it doesn't matter what time of the year, and you just look and see the types of people who come through here in the spring, summer and fall, and you've got a large demographic in the Japanese community and in the German community and lots of other groups coming from diverse communities. I'm wondering whether you could talk to the people here to get a Web site right at the front here that would give people access to what is going on, not only in the city of Toronto but across the province. It needs a connection, obviously, and some space for the ministry to put it up; and maybe you could coordinate with the city of Toronto.

**Mr Allen:** That's a good suggestion.

**Mr Hastings:** There's a lot of tourism targeting you could be doing, and this place is only a minor reflection of those kinds of very opportunistic situations that we could take advantage of.

**Mr Allen:** It's an excellent suggestion.

**Mr Hastings:** The whole targeting—do you have on your staff a trends tourism analyst or whatever you'd call them?

**Mr Allen:** Yes, we have a research section that would look at trends in the demographics.

**Mr Hastings:** Because a couple of areas that we could be taking advantage of, in my estimation, are where we have—do we have an Ontario House in Tokyo? I believe we used to.

**Mr Allen:** We used to, but no, we don't any more.

**Mr Patten:** We used to have another one in London too.

*Interjections.*

**Mr Hastings:** The tourism people at the embassies—whatever you call them; cultural attachés—are supposed



to be promoting the provinces to some extent. I guess if we provide them with material or connection to the Web site—I don't know if you're talking about that—there are some great possibilities across this province to get people here. The whole area of eco-tourism is big with the Germans and the European Community, and it would be interesting to know whether we're really going after that market to get these people to come to Canada. I know they're going to British Columbia. Are they just flying right over northwestern Ontario and saying, "That's all the Canadian Shield," and they're going out to the Rockies?

**Mr Allen:** We do have some international representation. Bill, perhaps you could highlight how that works.

**Mr Kenny:** Yes, we have in-market representatives that try and develop business for us over there. We have people in England, Germany, Japan and the United States. We have a company in New York City and Chicago and those are contracts that we have. In fact, the board has just been reviewing the activities in these areas and has been looking at some options. I think we're going to go out for an RFP shortly to seek representation for the next cycle.

**Mr Hastings:** Does the ministry monitor American and European media as to how we're perceived abroad?

**Mr Kenny:** There are studies done by the Canadian Tourism Commission that look at how Canada and, in some other reports, how the different provinces are perceived by the international markets, absolutely.

**Mr Hastings:** Why I ask that question is if the CTC is doing that monitoring for us, the media tracking, somebody should get a hold of a few of CNN's programs lately and see how we're being perceived and how it's probably not helping us in terms of the contemporary public affairs issues that are going on. They're actually having a great deal of fun with us.

**The Vice-Chair:** We'll move on to the next caucus.

**Mr John Gerretsen (Kingston and the Islands):** Thank you very much, Chair. I was tourism critic for our caucus for about a year and a half and I thoroughly enjoyed it. It gave me an opportunity to see many parts of this province.

**Mr Patten:** It was painful.

**Mr Gerretsen:** It was not, no. We have something here in Ontario that we can sell, or should be selling, around the world. That drive Mr Martin referred to, between Sault Ste Marie and Thunder Bay, is as nice a drive as I've ever been on, and I haven't been all over the world but a good section of it. It's something that we should be promoting a lot more.

Let me also say that the vast majority if not all of the people I've met through the Ministry of Tourism and its various incarnations are topnotch people, but I don't think we're doing enough. I remember going to a conference one time and being told that, over the last 15 years, tourism worldwide had increased tenfold. It's a multi-billion-dollar business that is expanding all over the world as people get older. In the western world, we are better off so we have more opportunity to go all over

the place etc. Yet when we look at your statistics here in Ontario, over the last 10 years our numbers are dropping, and that's with a weak Canadian dollar and everything else. With all due respect, I don't think that, as a ministry or as a government or as a province, we're doing well enough.

I look at tourism from only one perspective. I know there's the cultural side, I know there's the heritage side—especially coming from a place like Kingston where we basically sell heritage. We want people to come to our downtown and look at the ambience. In survey after survey that we take, the ambience of the city is always the second-most important reason why people come there, Fort Henry being the first.

But I don't think we're doing enough promotion. So let me ask you some very specific questions. I'm starting on page 259. Why is it that the ministry, in your database and all of the publications you have, only has a tourist guide list that has 1,400 of 8,000 tourism facilities? That means you've got less than 15% of the total tourist facilities. I know there are little bed and breakfasts somewhere that may not be included and a whole bunch of other things, but I think that is disgraceful. Because I just look at myself as a tourist when I go somewhere, and what do I do? I either write away for brochures to the state or province I want to visit or I go to the CAA or I get it on the Internet. If I were to go on the Ministry of Tourism Internet in Ontario and I can only identify in one way or another 15% of the total that's out there, heck, I may be missing an awful lot. What are you doing specifically to increase that number from 1,400 to even 2,800 or 4,300 or more than half or what have you? What have you done about it? That's what I'd like to know.

**Mr Kenny:** I think what the auditor was referring to in the report was that the listings in one of our publications, which is our reference guide, ended up with 1,400 listings. The operators pay to be listed in that book. The package at that time, I believe, was \$150 a year to be in the reference guide and also to have an expanded listing on our Web site. So that's quite correct in that we did not have the kind of representation of the product in that publication that we would have liked to have seen.

**Mr Gerretsen:** Does everybody pay? For example, does a Fort Henry or a SkyDome pay to be in that book?

**Mr Kenny:** Everybody in that particular book. That was the arrangement at that time. I think I mentioned earlier that on our Web site everyone can be listed for free. There are huge trends that indicate that the Web site is where a lot of travel planning is done.

A couple of things, I guess. One would be that there are a number of publications and brochures that we do produce, either through partnerships or directly. For example, we have a partnership with Attractions Ontario where all the members of Attractions Ontario are putting advertising into their publication. We partner with them to get all of that. You may have seen it; it's an attractions guide with coupons in the back, that kind of thing. So we have partnerships with a number of organizations. I think what's happening with the reference guide, which was

basically a listing of hotels, is a lot of the operators were feeling they weren't getting much business off of that, frankly, and we were having trouble selling it.

What are we doing in terms of trying to get businesses on our Web site? I can tell you that we now have over 2,000 operators registered on the Web site. Our target is to have 3,000, at the very least, on the Web site by the end of March in terms of our free listing. I'm hopeful that partway into the summer, we should have—our target is to have everyone on, and our understanding of “everyone” is in the range of—

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**Mr Gerretsen:** How are you getting everyone on? What are you doing to actually get those people on?

**Mr Kenny:** Our sales people are phoning out and we're doing faxes out. In fact, today one of my staff is out with the travel information centre staff having discussions about how we can reach all of the smaller operators who send their brochures in to the 18 travel information centres, and advise them that there's a free listing for the offering and try and get them on. My hope is that the travel counsellors, who are in the business of making sure their information is up to date, will encourage the operators they know in their area to come and get listed. We have staff who will help people get on the site and get registered.

**Mr Gerretsen:** OK, next question: there are so many different ministries involved in different aspects of tourism. I was surprised to hear the Ministry of Agriculture spending \$1.1 million on tourism. I don't know why that's so. The auditor makes a statement that, “There was no process in place to collect information on the tourism-related activities undertaken by other ministries,” by you. Why aren't you doing that? It should be a simple thing. If it's only a tag-on for another ministry to be involved in their tourist activities, surely to goodness you, as the lead ministry in that regard, should know what other people out there are doing. Well, he makes the statement, “There was no process in place to collect information on the tourism-related activities undertaken by other ministries.” Why not?

**Mr Allen:** There will be. There are two things that we've instituted. We're setting up an ADMs committee that will pull these ministries together, not just to catalogue what they're doing but to talk about how they tie into our tourism strategy.

The other thing we're going to be doing this coming year is to do a survey of those ministries and determine how many dollars they're spending that impact on tourism. You mentioned agriculture and food. That was when they had the rural mandate and they did spend a significant number of dollars in developing tourism in rural Ontario.

**Mr Gerretsen:** Well, that's fine, but at least you, as the tourism ministry, should surely know what's going on there. It's not like you're doing it.

**Mr Allen:** Actually, in programs like that, we did know what was going on. We were able to direct a num-

ber of our stakeholders to that program and they were successful in getting funding.

**Mr Gerretsen:** Next question—I'm taking this right out of the auditor's report, page 259: “Ontario is one of only a few leading tourist destinations that does not have province-wide quality standards,” or an accommodation rating system. I don't know, but I think most travellers out there—and you can find it in all categories, from five-star to one-star—at least want to know that the places they're going into are clean and are relatively well maintained, so that they can feel comfortable in them. As a province that's as large as we are and has so much to offer, why don't we have that kind of quality system here in Ontario?

**Mr Allen:** As mentioned this morning, there is a rating system that is voluntary, and not everyone has bought into that.

**Mr Gerretsen:** What percentage would have bought into that? Ballpark.

**Mr Allen:** Three hundred operations are in, so it's a small percentage.

**Mr Gerretsen:** Out of how many?

**Mr Allen:** Potentially 8,000.

**Mr Gerretsen:** So we're talking about a minimal percentage.

**Mr Allen:** Yes.

**Mr Gerretsen:** Three hundred out of 8,000 isn't even worth talking about. You haven't even made a dent.

**Mr Patten:** It's 4%.

**Mr Gerretsen:** Thank you.

**Mr Allen:** The other thing we've undertaken is a pilot study looking at quality assurance, trying to convince the industry that parallel with developing a rating system, you do need a quality assurance program. If you don't have a minimum quality level, you're not going to be meeting the standards that are expected by the clientele.

**Mr Gerretsen:** How long has the ministry been going? According to you, everything is going to happen at some point in time in the future. Tourism has been around this province for, I bet you, 40 or 50 years as a ministry, maybe longer than that. Maybe both of you are new on the scene, so blame your predecessors, or maybe the political will wasn't there. I'll accept any kind of possibility. The point is that this states that we are one of the few leading tourist destinations that doesn't have any kind of quality assurance. Doesn't that bother you?

**Mr Allen:** We've tried to take the voluntary approach with the industry and I guess it's safe to say that they haven't completely bought into a comprehensive rating system.

**Mr Gerretsen:** OK, that's the answer. It's totally voluntary.

The last point on this particular page: “Both the ministry”—tourism—“and the corporation”—which is the marketing corporation—“maintain separate tourism information databases.” How can it possibly happen that there could be two complete systems, particularly with a corporation that was set up not all that long ago? Didn't anybody have the foresight to say, “We're setting up this



corporation, but we want to make sure that, whatever database they're using, the ministry can make use of that information as well," or that it's correlated to one of them? How could that happen?

**Mr Allen:** First of all, I would say we're well on our way to fixing that problem. That doesn't answer why it happened, but we are looking at an integrated system so that we only have one database that every part of the ministry can access.

**Mr Gerretsen:** Next point: I'm looking at page 260, where we're talking about the vision or mission statements. There are about five or six statements there, in a matter of 10 years. At one time, it's the social well-being of the residents of Ontario that's most important, then it's the economic advancement and development of tourism, then it's to achieve sustainable growth, then we're talking about how we want to create this must-see worldwide tourist destination. And from April 2002 we don't even have a vision. It says, "to be determined."

Is that one of the problems, that within the ministry itself—and perhaps as a result of political input, obviously, from time to time, from maybe different ministers or different governments—you're getting so many mixed messages that you don't know what you're doing and that's why you've got systems that don't match up to one another or you don't know how many facilities are out there etc? I'm just trying to get a handle on this. It seems to me you're all good people, you're wonderful people, but from reading this report, the ministry as a whole is not doing a darned good job, to say the least.

**Mr Allen:** Picking up on your comment that we have good people working for the ministry, I think that has been one of the consistent things over the years. Even though our mandate or our mission statement shifts, we still have good people on the ground working with the industry. There's no question that in any industry, when you're working with stakeholders, you could do more, but if you look at what our staff has accomplished over the last decade, we have worked very closely with the stakeholders, with the industry. I guess the bottom line, as I mentioned this morning, was to make sure that we have a tourism industry that is contributing to the economic well-being of the province.

**Mr Gerretsen:** That sounds wonderful, but I don't know what it does. I look at tourism as an economic development tool. Any dollar we can bring in from outside the country is a 100% gain to the province of Ontario, either to the private individual who runs the operation—and the taxes that evolve from that or in the tax dollars that the people are spending or what have you. For anybody who comes in from the outside, that is a big gain, a 100% gain to the provincial financial situation.

I get very disturbed when I read on page 268 that, "The federal process indicated that a number of countries had a high potential for good marketing results, including countries not being targeted by the corporation,"—meaning your marketing corporation; let's listen to these countries in which you have absolutely no strategy, according to the Provincial Auditor—"such as Mexico,

Taiwan, Hong Kong, South Korea, and Brazil." Talking about Brazilian balls, we're not even doing anything in Brazil to get the people here. South Korea, one of the richest countries in the world; Hong Kong, one of the richest countries in the world; Mexico—I'm sure there are some rich folks there who want to come here. Why aren't we doing anything even collectively with the feds, those horrible feds that the government members sometimes like to talk about, to try to get those people here? We benefit from that. It's jobs; it's products that can be produced as a result of that. Worldwide it's increasing tenfold over the last 15 years. Your own chart here shows that it's decreasing over the last 10 years. We are losing the share that we had even 10 years ago in this economic development tool. Why aren't we marketing in those other countries?

1420

**Mr Allen:** I'll ask Bill to comment on how the OTMP has selected the international markets that they want to focus on.

**Mr Kenny:** The approach we've been taking since the beginning of OTMP has basically been the staff looking at the research that we have and looking at the numbers and then from there taking that to our marketing committees to make some decisions as to where we should put the investment, and then putting together a marketing plan and it being approved by the board.

The auditor has indicated that we had not documented our selections in terms of our rankings in a more formal way and that there were models that were out there; the Canadian Tourism Commission had one that we should look at. So what we have done is looked at the model the CTC developed and we have done a formal assessment using their model and putting a few more variables into our model. There is a model developed in British Columbia that we're looking at as well. Frankly, there are some flaws with the model that the CTC has been using. At the end of the day, I think these models—sort of input-output models based on various information—are useful in terms of guiding a discussion. Beyond that, though, we listen to people who are in those markets trying to sell their products, their business, in those markets, and they'll tell us whether business is really going to be hard in the coming year or not. So there's a lot of leadership that we look to out of our marketing committees to decide on the priority.

I know that in the last few years we have made efforts into a number of the international markets, and we do it with the CTC. We very rarely go alone into those markets, without the CTC, because of the expense. Right now, certainly our assessment is that Mexico and some of those that the CTC is looking at, we consider to have some potential as well. At the moment, however, given the post-9/11 environment and the potential situation with Iraq, the board is suggesting that we will do some in-market work—for example, we've had some staff very recently go to Taiwan to start building some relationships at some of the meetings with the CTC out there—however, we're not ready to invest a large amount of

dollars in marketing that market at this time, because we do feel that the impact in terms of people travelling by air right now is very depressed in a lot of those international markets. So what we're trying to do right now is build up our relationships in some of those emerging markets, do some public relations work with them, and then, as the situation in the air hopefully comes back, we'll start moving into those markets more strongly with the CTC.

**Mr Gerretsen:** All I can say, sir, is there's a huge American market out there. Their dollar is worth an awful lot in this province right now, and we should be out there trying to get this economic development. We still kind of look at tourism as a cultural or a heritage thing. It is economic development, and unless the province takes a leading role in making sure the properties are up to scratch, with good licensing—not voluntary licensing but mandatory licensing, if you really want to present a product in the province of Ontario—in my opinion, we won't get anywhere.

My final comment deals with the consulting situation, where contracts are split into two \$25,000 contracts and that sort of thing so that it doesn't have to go to public tender. Let me just say this. When you said, "We'll make it clear to them that they shouldn't be doing this," I think you should be much stronger than that: "The next time you do it, you get disciplined or fired." There's absolutely no reason why, if there are rules out there that a contract over a certain amount has to be tendered, there should be any deviation from that, unless, I suppose, you can show extraordinary circumstances. For a manager or somebody in your department to then simply split the contract in two and let them run with it, I think, as a taxpayer—and I look at spending public money exactly the same way as if it were my own; I wouldn't accept it in my own family situation—we should not—

**Mr Gill:** That's PC.

**Mr Gerretsen:** No, that's not PC. That's just good accountability. If you would tell your ministers not to go around the province telling them how much they are for accountability but to just follow the act I introduced and get them to call it in the House and give it third reading so that this man can go after about 60% of the money we're spending here, we'd all be better off. But your minister shouldn't be saying one thing out there and doing the exact opposite here.

Anyway, good luck. I wish you well in the future. What you really need is probably about double the money to do an adequate job.

**The Vice-Chair:** Mr Patten, you indicated that you had—

**Mr Patten:** Yes, I had one final comment, and that was that you've been on the job for a relatively short period of time, and I'm sure you appreciate the challenges you have. But I want to echo some of the positive statements my colleague just made about truly seeing the potential of this ministry. I would think it could be a lot of fun, because you're in an animating role, really.

My question is—I guess there are two parts to it—given that you really do provide an economic develop-

ment thrust—it's not the only function of it; it's bringing people together. You bring a lot of people in the sports field together, and a lot of young people. I think there are many, many benefits. If I were a deputy, I'd want to take on this kind of a ministry because I think it could be a great challenge in many ways. But given the economic spinoff, it's somewhat worrisome that your budget has been cut about 37% since 2000, I guess. What's your budget loss overall?

**Mr Allen:** I'm afraid I can't tell you that.

**Mr Patten:** Anyway, if we're getting \$12 on every—and this is just the advertising dollars. We're not counting what we stimulate in other activity that, indirectly, isn't even accounted for but which we know is considerable. I know that festivals in Ottawa have spinoffs beyond what anyone can account for. They are wonderful things for communities. It's one of the things that distinguishes communities and gets people within communities participating, so it's fantastic. It seems to me you've probably already had your sort of prebudget poker opportunities. Every ministry gets a chance: "All right, what is it that you see as contributing to the vision of the finance minister?"

But I think you have an extremely strong case. I see, as our Chair pointed out a few times before, that it has continued to be reoriented and somehow divided, and yet there is a very logical reason as to why it should be pretty compact and have a clear sense of vision for the social, economic, educational, international relations components, whatever, and value to our province through this.

**Mr Allen:** I'm looking forward to taking on the new portfolio. It will be exciting. There are challenges; no question about it.

To Mr Gerretsen's earlier comment, I think the industry does need to think of itself as an industry and as an economic generator, as some of the other industries do, whether you're talking about forestry, mining or agriculture. So that will be one of the challenges.

**Mr Martin:** Before I move my motion here, I just wanted to—Mr Hastings and Mr Gerretsen spoke of the opportunity that's out there around the world. I've led trade missions into Ireland and from Ireland for about two years now, four different exchanges. The first year we went, we went to Dublin. There were 12 of us. We had some folks with us from Wawa who wanted to market ecotourism and some of the opportunities that were there and to meet with some folks. But the closest office of any sort where tourism promotion was concerned—and we were helped by the embassy and Mr Irwin, who was the ambassador to Ireland at the time—was London. So there was nothing. Ireland is an up-and-coming economy. It's actually one of the leading economies in Europe at the moment. A lot of people who before that could not travel because they just weren't making the kind of money which would allow them to do that are now travelling. They're going to Europe. A lot of them are going to Australia. Every other week in the big daily newspapers there are full-page ads from Australia and New Zealand trying to get people to come. There's



nothing from Canada. Mr Irwin was noting that as well, that there was no presence in Ireland from Canada and Ontario to draw people over here.

1430

We were trying to do it out of the Soo. We did make a number of contacts. We had 23 people come back last year in June; we took 84 over this past June. There's potential there, but unless we're in there tilling the soil, it isn't going to come our way. In northern Ontario in particular, we have some wonderful things to offer.

Anyway, I'd like to just move this motion: that the committee write to the Ministry—

*Interjection.*

**The Chair:** No, it's part of the hearings. Go ahead.

**Mr Martin:** That the committee write to the Ministry of Northern Development and Mines requesting a report on the now no-longer-in-operation Northern Ontario Tourism Marketing Association with details on its activities and how money was spent. The report should include: how the ministry managed the relationship with the association; why the association was terminated and what happened to any residual funds; given the concern raised by the auditor around the contracting out of services and activities within the tourism ministry, what was the practice within the association as it was monitored and funded by the Ministry of Northern Development and Mines; further elaboration on the failure of the association and what will be done in the new organization to not repeat the experience.

I'd like to move that.

**The Chair:** Is there any discussion? All in favour? Opposed?

**Mr Martin:** Could we have a recorded vote on that, or is it too late?

**The Chair:** It's my understanding that it's too late for that. If you want a recorded vote, it has to be done before. All against? The motion is lost.

*Interjection.*

**Mr Martin:** There are ways.

**The Chair:** Does anybody else want to say anything about this issue?

With that, Deputy, we'd like to thank you very much for coming, you and your colleagues, and for sharing the information you've provided us with. We wish you well in the future in the ministry.

**Mr Allen:** Thank you very much.

**The Chair:** Let's hope lots of people come to Canada and Ontario.

## COMMITTEE BUSINESS

**The Chair:** There is one other issue before we adjourn today. The auditor has requested that for the briefing on The Overseers: Public Accounts Committees and Public Spending, which was scheduled, according to the agenda that was sent out, for next Monday, he be allowed an opportunity to deal with that today. The reason for that is that he will not be here on Monday. Is there a problem with that?

**Mr Martin:** We have been subbing in critics in areas of relevance, and I don't pretend to be able to deal with that in the way that I was able to with the material today. So perhaps if you have something in writing that I could pass on to—

**Mr Peters:** There will be handouts.

**Mr Patten:** This is finance?

**The Chair:** No. The material was circulated, I believe, before the afternoon session. It's called The Overseers, and it's a document that's about eight pages in length. It's an article by David McGee, QC, Public Accounts Committees and Public Spending, and it comes from the Commonwealth Parliamentary Association.

**Mr Patten:** Was this one of your experiences, Mr Peters?

**The Chair:** Mr Martin, could Mr Peters just address for a moment what this is about?

**Mr Peters:** Yes, very quickly. Actually, in this very room a task force from the Commonwealth Parliamentary Association met to discuss the role of the public accounts committees and public spending and their relationship with auditors. I had the privilege of being one of the technical advisers, along with the Deputy Auditor General of Canada and a senior representative of the World Bank. As a result of the hearings of the task force, they presented a little book that looks like this, called The Overseers. They charged David McGee of New Zealand, a QC, with writing the book.

What I was going to go over was which of the 39 recommendations apply to Ontario—which ones we're doing already and which ones we should maybe consider doing—and those that are not applicable to us under the particular circumstance.

If I may add, just on a personal note, unfortunately my mother has taken quite ill, so I have to fly to see her and won't be able to be with you next week. Jim McCarter will do it. Jim has indicated that he's quite willing to take this on, but he hasn't been involved in this activity at all, and this is why the request has been made. That's the only reason.

**Mr Martin:** If there are notes that could be made available for Ms Martel, who is the regular participant on this committee, I'd appreciate getting them so I could share them with her. But that's fine.

**Mr Wettlaufer:** I'm not a permanent member of this committee either. I was just subbed in because of my role as parliamentary assistant to the Minister of Tourism. So I have every sympathy for Mr Martin and feel that a more orderly time to do it would be when everybody else who is a permanent member of the committee is here.

**Mr Peters:** That's fine.

**The Chair:** That's fine. But just so we have your thoughts on the record, since you're not going to be here on Monday, you basically favour this report, then, that has been presented by Mr McGee, is that correct?

**Mr Peters:** What I actually favour is that we consider as a committee some of the recommendations for potential action that we're not doing right now. We have sorted the recommendations out into three headings: one already

practised in Ontario, one to be considered for action in Ontario, and one not applicable to Ontario. So the focus of the presentation was really to take a look at some of the recommendations they are making to see whether we would like to consider those for action in Ontario.

**The Chair:** Those recommendations have gone to everybody, so if it's the wish of the committee, we'll deal with them on Monday, then.

**Mr McDonald:** I understand their concerns, but if Mr Peters isn't going to be here next week anyway, it might be useful for those of us who maybe want to stick around and listen to what he has to say.

**The Chair:** We either have a committee hearing or we don't.

**Mr Martin:** Another suggestion is that, when Mr Peters is back, this be rescheduled and put on the agenda

and people made aware ahead of time that it's coming so they can make arrangements to be here.

**The Chair:** Unless there's unanimous consent to deal with it now, I think we should leave it on the agenda on Monday. Mr McCarter can maybe give his comments at that point in time. It will be up to the committee at that time as to what they want to do with it. I think that's probably the best way to deal with it. Does everybody agree with that?

**Mr Crozier:** I'm just the most agreeable person in the world.

**The Chair:** With that, we stand adjourned until 9:30 on Thursday, with the open session starting at 10 o'clock. Thank you all for your great co-operation this afternoon.

*The committee adjourned at 1438.*



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## Assemblée législative de l'Ontario

Troisième session, 37<sup>e</sup> législature

# Official Report of Debates (Hansard)

Thursday 20 February 2003

# Journal des débats (Hansard)

Jeudi 20 février 2003

## Standing committee on public accounts

2002 Annual Report,  
Provincial Auditor:  
Ministry of Natural Resources

## Comité permanent des comptes publics

Rapport annuel 2002,  
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## ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON  
PUBLIC ACCOUNTSCOMITÉ PERMANENT DES  
COMPTES PUBLICS

Thursday 20 February 2003

Jeudi 20 février 2003

*The committee met at 1009 in room 151, following a closed session.*

2002 ANNUAL REPORT,  
PROVINCIAL AUDITOR  
MINISTRY OF NATURAL RESOURCES

Consideration of section 4.13, forest management program.

**The Chair (Mr John Gerretsen):** Good morning, everyone. I would like to call to order the standing committee on public accounts. This morning we are dealing with the follow-up report relating to the forest management program in which the Ministry of Natural Resources is involved. We have with us today the deputy minister, Mr John Burke. You have a number of other people within your delegation as well. Welcome to our hearings.

You'll be given about 15 to 20 minutes for an opening comment or statement. That will be followed by questions from members of the various caucuses. Go ahead, sir.

**Mr John Burke:** Thank you very much, Mr Chair, and members of committee. My name is John Burke. I'm the Deputy Minister of Natural Resources. I want to thank the committee for providing me and my colleagues the opportunity to meet with you and update you on the progress we've accomplished within the ministry with respect to the recommendations of the Provincial Auditor and those made the last time we were here, by the public accounts standing committee, dealing with the forest management program. We value and appreciate both the work of the committee and of the auditor as valuable contributions to improve the effectiveness and efficiency of our efforts in managing the province's forest resources.

Joining me this morning are Mike Willick, the assistant deputy minister of our forests division; Bill Thornton, the director of the forest management branch; and Frank Kennedy, the director of our science branch. Following my opening remarks, my colleagues and I will be happy to respond to any questions you may have on these various matters.

As you know, the Ministry of Natural Resources is the steward of Ontario's provincial parks, forests, fisheries, wildlife and mineral aggregates, petroleum resources, crown lands and waters, which make up 87% of the

province. The responsibility for managing crown forests rests with the ministry. This is a responsibility which we of course take very seriously. After all, there are over 40 communities in Ontario whose economies are largely dependent on the forest products industry as their principal source of employment. The Ontario forest product industry in 1999 had shipments of forest products valued at nearly \$16 billion, with exports accounting for more than half of that number.

We at MNR strive to achieve the balance between the economic, environmental and social considerations. This is what we call sustainable management of our resources. For example, each year in Ontario only about one third of 1% of the total forested areas is harvested for timber. Most importantly, all areas harvested on crown lands must be regenerated by the industry itself.

Forest management is all about managing natural ecosystems, and as you know, these systems are subject to many natural disturbances far beyond harvesting; things like fire, insect damage and weather.

The balance has also been achieved through Ontario's Living Legacy. This is an historic initiative that builds on Ontario's long tradition of outstanding outdoor recreation, while providing security and business benefits for forestry, mining and resource-based tourism. As many of you know, Ontario's Living Legacy will result in the creation of 378 new parks and protected areas. The province, through Ontario's Living Legacy, has already regulated 171 of these new parks and conservation reserves to date. Regulating these areas ensures their natural, cultural and recreational features are now protected, and of course protected into the future.

I would now like to turn attention to the reason we're here today and provide you with some additional background. In the spring of 2000, the Provincial Auditor reviewed the forest management program and released a special report outlining 10 basic recommendations for business improvements. As a result, MNR developed an action plan to address those recommendations.

Additionally, in March 2001, we had the opportunity to appear before this committee to discuss the findings and actions taken to this point in time. The committee subsequently outlined 13 other recommendations on top of those outlined in the Provincial Auditor's report. We responded to those in a report tabled in the fall of 2001.

In February 2002, about a year ago, the ministry provided the Provincial Auditor's office with a progress



report detailing the status and actions taken to address the recommendations and the matters raised in the audit. MNR's progress was included and is well documented in the Provincial Auditor's follow-up in his 2002 annual report.

Recommendations in the Provincial Auditor's annual report often provide us with an opportunity to see how we can improve our current practices and implement these changes. We have taken the same serious approach with the recommendations made by this committee now almost two years ago.

To provide you with an overall picture of MNR's progress, I'll begin by reviewing the recommendations in the Provincial Auditor's 2002 report, the standing committee's report of about two years ago, and a brief status as to where we stand on all of this as of January this year.

Let me take you through each of those recommendations of the Provincial Auditor.

Recommendation 1 dealt with the completion of annual reports on a timely basis. This has been implemented completely.

Recommendation 2, on assessing forest renewal, was implemented.

Recommendation 3, on forest information, was implemented.

Number 4, on planning and harvesting, was implemented.

Number 5, regarding sustainable management and optimization of economic opportunities, was implemented.

Recommendation 6, on forest renewal and maintenance, was implemented.

Number 7, regarding compliance inspections, was implemented.

Number 8, on enforcement activities, was implemented.

Recommendation 9, regarding forestry trust, was implemented.

The 10th recommendation, about maximizing revenue, was implemented.

Let me now turn my attention to the 13 recommendations from this committee which we were directed to act on two years ago.

Number 1 dealt with the scheduling of the release of annual reports. Those have been implemented.

Recommendation 2, regarding the independent forest audit process, was implemented.

The third recommendation, regarding the reporting of harvest area renewals and annual reports, was implemented.

The fourth recommendation, regarding forestry information, was implemented.

Recommendation 5, on planned and actual harvest levels, was implemented.

The sixth recommendation, regarding mill licensing procedures, was implemented.

Recommendation 7, which deals with the review of the new compliance reporting system, is in progress, so it's partially implemented. The resulting enhancement to

the system will be fully available and functional in fiscal 2004-05.

Recommendation 8, about providing historical compliance information to the forest industry, was implemented.

Recommendation 9, on provincial standards for compliance inspections by the forest industry, was implemented.

As for recommendation 10, we carefully considered what the committee had requested but have not instituted a third party review of the ministry's risk-based strategy for compliance monitoring at this time. We've indicated that to the standing committee.

**Mr Gilles Bisson (Timmins-James Bay):** This is in regard to licensing?

**Mr Burke:** Mill licences, yes. We have, however, instituted a risk-based approach, as was recommended by the Provincial Auditor.

The 11th recommendation, to complete a follow-up review on compliance and enforcement—this relates to 1999—was implemented.

The 12th recommendation, to review record keeping on enforcement, was implemented.

The last recommendation, number 13, regarding monitoring forest renewal trust accounts, has also been implemented.

I'd like to take a few moments now just to elaborate on the progress made on these recommendations in the following areas: forest information and compliance, reporting, auditing, forest operations and efficient management.

With respect to reporting requirements, the Provincial Auditor pointed out that the ministry should report annually on the management of crown forests, as required under the timber class EA, so that the public is informed in a timely manner. The ministry renewed its efforts to produce these annual reports on forest management, tabling three outstanding reports shortly after the audit recommendation, and has kept all subsequent reports on schedule. I'm also pleased to report that the five-year State of the Forest Report was completed as planned in 2001, tabled and then released to the public in March 2002. Timeliness was a concern of the standing committee, and certainly ours, and we remain committed to maintaining that more timely schedule.

MNR has also undertaken several communications initiatives to ensure that both forest industry partners who are required annually to submit field information and MNR staff who review and approve the field information are aware of the importance of the timely submission of reports.

An internal MNR protocol, which we call the annual report preparation and review protocol, was revised in November of last year. It has been developed by MNR to assist us in the forest industry in clearly understanding the full reporting requirements and associated deadlines and the review process. Training, which is an essential piece of this, was provided to forest industry and MNR

field staff last fall, when the revised protocol was implemented.

1020

The ministry has also taken steps to ensure that forest managers for each management unit comply with their reporting obligation and renewal activities. In addition to the forest management planning manual, which requires forest managers to indicate their planned and actual renewal activities and assessments through forest management plans, annual work schedules and annual reports, MNR also completed the forest information manual in April 2001. It documents renewal assessment and reporting requirements. Both manuals are regulated under the Crown Forest Sustainability Act, which of course includes provisions for their enforcement.

Another manual, the Silvicultural Effectiveness Monitoring Manual for Ontario, was released in November 2001, and it describes the requirements and expectations regarding objectives, standards-setting, survey methodologies, compilation, analysis and reporting of silviculture effectiveness.

Implementation and training of both the MNR and sustainable forest licence holder staff in the requirements and use of newer manuals commenced in 2001 and of course is ongoing.

Specifically in response to the standing committee's comments, the annual report on forest management continues to summarize and compare harvest and renewal areas as reported annually by management units for a rolling five-year period. The report also includes results of renewal assessments summarized by administrative regions, a summary of fines and penalties related to compliance monitoring, and a provincial overview of actions taken. MNR continues to require independent forest audits to not only assess how well the forests are being renewed but also the level of surveys that are being conducted. When deficiencies are identified, they must then be addressed in action plans and acted upon within specific frameworks. Furthermore, the State of the Forest Report contains a five-year summary and an analysis of renewal results from annual and independent audit reports. The audit reports are used to evaluate how well the forests are being renewed and the level of survey activities that are being conducted.

I'm also pleased, in respect to the recommendations raised in the past, to report that the forest information manual was completed and approved into regulation on April 25, 2001, and builds upon the new business relations adopted with the forest industry in 1996. The manual describes the roles and responsibility of the forest industry and the ministry in relation to the exchange of information and information products between them. The information exchanged is for the purposes of forest management planning and ensuring compliance with the Crown Forest Sustainability Act.

In terms of forest operations, the auditor in committee also commented on the need to address variations between planned and actual harvest levels to ensure that forest management units are adequately and sustainably

managed. The fact that harvest levels have been lower than planned has in part allowed for and reduced the impact of expanding Ontario's system of parks and protected areas through Ontario's Living Legacy. The ministry has improved the reporting and analysis of planned and actual harvests. For example, ongoing training continues to emphasize requirements for a complete report of past forest operations. MNR also requires sustainable forest licence holders to report actual harvest levels each year, as well as to submit an analysis of significant variations in harvest levels at the end of each five-year plan term, through the report on past forest operations. MNR reviews these reports, as well as independent forest audits, to identify variances between planned and actual harvest. A disposition process to fairly distribute the available forest resources, in surplus or deficit wood supply situations, is of course in place.

You may also be interested to know that MNR is currently working on initiatives to allocate surplus wood for purposes of economic development in the province. The ministry has been aggressive in issuing two requests for proposals for the northeast part of the province to improve the utilization of low-quality, tolerant hardwoods and white birch, an announcement back in April 2001. These proposals have the potential to result in an additional \$160 million in new investment and more than 550 new mill and harvesting jobs.

The ministry was also asked to ensure that all operating mills are licensed, that the annual information reports are received in a timely fashion, and also that forest management plans adequately assess market demands of local mills. It was also asked to review its new procedures for the issuance of mill licences, taking into account company mergers and acquisitions and the extension of the licensing period.

MNR committed to providing a status report on the issuance of facility licences and completion of annual reports of annual returns to the standing committee on public accounts by April 2002. For various reasons, that deadline was unfortunately not met, and for that we certainly apologize to this committee. However, we are pleased to report that MNR has recently completed the subject report and has forwarded it to the clerk of the standing committee.

Work is progressing around the development and testing of computerized systems that will ensure the result of the automation of the facility licensing process and the ability to issue licences and track them on all our facilities in Ontario. Implementation is targeted for April 2003. In addition, a new system for submitting annual return information will be tested in April and implemented in September. So from a continuous improvement point of view, the ministry, as a matter of practice, continues to assess, review, fine-tune and refine procedures for issuing facility licences and receiving adequate and accurate annual returns, taking into account company mergers, acquisitions and the terms of the licences themselves.



As a result of the Provincial Auditor's recommendations with respect to forest renewal and maintenance, MNR has taken action to ensure that all sustainable forest licence holders comply with their forest renewal and maintenance obligations to ensure that they will be successfully renewed. The forest management planning manual requires forest managers to indicate their planned and actual activities through forest management plans. The forest information manual, which was approved earlier, includes renewal, assessment and reporting requirements.

**The Chair:** Are you coming to the end of your presentation, sir?

**Mr Burke:** I am indeed.

Adjustments have been made to the annual audit cycle, reflecting input received from the 2001 comprehensive review, the Provincial Auditor's report and this standing committee. Independent forest audit processes are now in place.

In conclusion, I am pleased to report that recommendations from the Provincial Auditor's report and those of the standing committee have resulted in the ministry completing a variety of initiatives to improve the efficiency and effectiveness of our efforts in managing the province's valuable natural resources. In closing, I would like to thank you, Mr Chair and committee members, for the opportunity to review and discuss actions and progress associated with this matter. I look forward to today's discussions and to answering any questions related to the forest management matter before us.

**The Chair:** Thank you very much, sir. We'll start the round of questioning today with the official opposition, the Liberal caucus. We'll have 20-minute rounds.

**Mr Ernie Parsons (Prince Edward-Hastings):** I'm not an expert on the forest industry. I wish I knew more than I do, because I recognize its key economic value to this province, so some of my questions that reflect forest management will have been brought to me by constituents.

Private landowners in this province can enter into a managed forest agreement, where they retain a professional forester to evaluate, and in return for their commitment to manage the forest they receive a tax rate that is 25% of the residential rate; is that correct?

**Mr Bill Thornton:** That's correct.

**Mr Parsons:** I suspect you've had a lot to do with that initiative, and I applaud it. I guess my concern is that over the last year, the Municipal Property and Assessment Corp has basically undone everything you've done. I realize they're a separate body, but they are in fact a creation of this government. I have had a multitude of individuals coming in to see me where MPAC has gone in and increased their assessments by 150%, 275% or 400%. Now, I understand that the premise for the evaluation was that it was assessed as a woodlot, not that it could ultimately grow cottages or be a housing subdivision. But from what I could find out in the last year, MPAC has come in and assessed it at its highest

and best use and not as a managed woodlot, particularly where it has waterfront on it. In my mind, the waterfront doesn't substantially increase the value of the trees on the property. There used to be a banding where they said, I think, that 208 feet was assessed at one rate. I guess my question to you is, given that MPAC is removing every incentive to protect and manage a forest, what is MNR doing?

**1030**

**Mr Burke:** Let me begin by saying that, having spent about 29 years of my public life in local government, I know exactly the issues you talk about, and certainly the issues that have been raised by MPAC's policies and procedures essentially acting somewhat counterproductive to what we want to accomplish. There was a review of this very topic undertaken by government, as you probably know, and the points you have raised, along with many others, were also raised by people.

For those on the committee who may not know a lot about this program, it was really introduced to bring greater fairness to the property tax system by valuing forest land according to its current use. Reductions in property taxes were then available to property owners, provided that they did managed forest plans, submitted those plans and had them properly approved.

There were significant issues raised around tax assessments. We have communicated, through the various people and stakeholders who have indicated to us their levels of concerns as well, our concerns to the Ministry of Finance, which has carriage of this issue insofar as government is concerned. We as staff continue to work closely with the Ministry of Finance to ensure that they understand the level of issues that are being raised, the impact on those owners and the need to have some mechanisms put in place so that those promised savings are in fact realized. It's a bit of a work in progress right now, and I guess time will answer the question for all of us appropriately. But we have certainly carried those concerns forward to the appropriate authorities, and hopefully we will get the resolution we all seek on this.

**Mr Parsons:** But in the interim, some of the owners are having difficulty paying the taxes. The incentive is to take it out of that. The tax rate reduction is absorbed by the municipality; is that correct? It's not a grant to the community to cover the 75% loss. MPAC, rather than being provincially controlled, is now municipally controlled? Is there a correlation between those two things?

**Mr Burke:** Having lived that life on that side, I think there probably is. The board of directors, as you properly point out, is made up largely of people who represent the municipal interest, and they certainly will practise whatever it takes to ensure they don't lose any revenue.

**Mr Parsons:** I think this is a very big issue for rural Ontario. My understanding is that the Ministry of Finance is saying MPAC is at arm's length. I wish you luck, and I appreciate your doing some work on it. I think it is a major, major issue that puts our forests at risk.

The second question: I worked for the Department of Highways many, many years ago, and I learned fairly quickly—

**Mr Bisson:** When there was one.

**Mr Parsons:** There was a Department of Highways, and in fact at that time there were highways that were provincially—

**Mr Bisson:** There was actually staff there.

**Mr Parsons:** There actually was, yes. I was very proud of that ministry when I worked with it. But I grasped fairly quickly that there is a profound difference between a tree located on Yonge Street and a tree located in the middle of the forest in North Hastings. It's like real estate: location is the whole thing.

There is always pressure on municipalities to bring in bylaws to preserve trees. Some municipalities do in fact bring in their own bylaws that restrict tree-cutting or the size of a tree. It's very tempting to them, sometimes, to restrict tree-cutting based on trunk diameter, strictly stump size and over. I've never actually come across any that also include the spread of the tree, where the regrowth has an effect on the forest and animals in it and so forth.

Your ministry has legislation in place that allows municipalities to bring in their own tree bylaws, and yet there is no restriction on municipalities as to what the bylaw would be. I guess my challenge to you is that if you're interested in the trees in Ontario, you should be interested in municipalities passing legislation that is contrary to the ministry's belief and philosophy.

**Mr Burke:** I think you're partially right in terms of municipalities being able to pass tree bylaws. But they're no longer required under any MNR legislation to do that. That was changed, I believe, a year ago or so under the new legislation for municipalities. The tree-cutting bylaw permissiveness is now contained in that, not under any legislation that's governed by MNR.

Having said that, MNR is interested in ensuring that the tree cover is well-preserved and well-protected. We have made available to the Ministry of Municipal Affairs our views, suggested policies and the manner in which bylaws can be structured so that they do create the desired result of protection. But that is about the extent of our role right now; it is not as it used to be just a short time ago, actually.

**Mr Parsons:** The ministry no longer has to sign off on a municipal bylaw.

**Mr Burke:** That's correct.

**Mr Parsons:** But they're still free to make it.

**Mr Burke:** Yes, and the idea of having a bylaw is still, of course, well-entrenched.

**Mr Parsons:** I'm wondering if I could suggest that, at the very least, you prepare a template of some form for municipalities to follow. If they have the latitude to do it, more power to them, but perhaps you could provide some direction and, as I said, a template for them to follow.

**Mr Burke:** I will certainly take that matter up with my deputy colleague at municipal affairs and see what can be developed for that purpose.

**Mr Parsons:** I think my third question falls within your area. I'm going to give you a brief synopsis as I understand it, because it is a very complex issue: the Grassy Narrows native band. We have a band that was unfortunate enough to initially be located on land that contained gold. It being crown land, they were moved from there to an area on a river. They did not have access to or claims on the gold or mineral rights to it. They moved them to a river—now, this is a band that hunts and fishes—that is full of mercury, as you will recall from 20 or 25 years ago, when we had the mercury poisoning.

**Interjection:** Minamata.

**Mr Parsons:** Right. That precluded the fishing part, but it left the hunting part for them. As a ministry, you now are approving all of the trees being cut down around them. Now, if you hunt and fish and there is no water and there are no trees, it makes it pretty tough.

**Mr Richard Patten (Ottawa Centre):** Yes, I guess.

**Mr Parsons:** They have their area, but all around them the trees are being wiped out, and for some reason animals don't like to live in open fields; it's a peculiarity on their part.

**Mr Bisson:** Humans do.

**Mr Parsons:** Humans don't want to live in the clear-cut where this has gone.

**Mr Bisson:** Some cottagers cut all the trees. That's what I would think it is.

**Mr Parsons:** It may be a native affairs issue, but I think it's an MNR issue: that there's no recognition of the effect on a native band; that you're party to destroying their way of life.

**Mr Burke:** There certainly have been some issues associated with Grassy Narrows First Nation, and I'm sure you're well aware of some of the blockades that have taken place, I guess to express their point of view around this. I should point out that, in the area in which forestry operations are taking place, they're taking place appropriately. The area is under licence. There were forest management plans put in place. Forest management plans, by their very nature, include an extensive amount of consultation, discussions, more rounds of consultation. Those included those First Nations communities. So to block, on the basis of a protest, a legal activity that's taking place on those lands is a practice that we have seen carried out, but I think it's important to recognize that indeed those are legal activities that are taking place there.

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Despite all of that, MNR does work closely with all the affected stakeholders. Abitibi-Consolidated is the licence holder and does the work on that particular licensed area. We have tried to broker some peaceful discussions between the band and industry, which is our normal role under those circumstances, and we continue to do that. Sometimes that makes us a bit of the meat in the sandwich, as they say; nonetheless, we think that's a legitimate role for MNR to play and be involved in.



We can't turn back the hands of time in terms of what has taken place in those communities, and I certainly say that acknowledging the points you've raised, but we are working with all of the stakeholders there to try to resolve the outstanding issues. We believe the forest management planning that has gone on there is sound and appropriate.

**Mr Parsons:** You are continuing to consult with the parties, but at the same time the trees are continuing to be cut down.

**Mr Burke:** Legally.

**Mr Parsons:** Well, because you granted a licence for it. Consultation in the form of, "We're going to cut down your trees. How do you feel about that?" isn't consultation.

**Mr Bisson:** Especially if you're the tree.

**Mr Parsons:** Well, I find this far more serious than the bureaucratic, "We're going to meet and discuss it."

You mentioned, I believe, in the beginning that the trees that were cut last year in Ontario represented one third of 1% of the trees?

**Mr Burke:** One third of 1% of the total forested area.

**Mr Parsons:** What is so special about the trees around Grassy Narrows? If we're only doing one third of 1%, it would seem to me there have got to be an awful lot of trees in other parts of Ontario that could be cut without destroying this way of life. Granted, it may be more haulage; granted, it may be a nuisance. But for the people of Grassy Narrows, if the trees are gone before your consultation is finished, how many years are we looking at for their way of life to return? Five or 10? No. A couple of generations? Yes.

I don't believe consultation is meaningful if you've already started the process. The licence is granted, the trees are coming down: "Let's talk about it."

**Mr Burke:** If I can just clarify our process, we don't start cutting trees down until there is a forest management plan in place, and that, by its very nature, includes consultation up front. We don't cut the trees down while we talk to people about what the forest management plan ought to look like. We do this in advance of starting those operations. While it's true that circumstances can change, so do forest management plans change. They're not static forever and a day. They are renewed; they are revisited. New situations, new circumstances are taken into account. I'm sure in this particular case, when this plan is due to be renewed, we will go through this same cycle that we started with in the establishment of a licence and operations in that area.

I don't know if any of my colleagues here want to answer anything further to what I have said on that subject.

**Mr Michael Willick:** Maybe I could just add that I want to make sure all the members understand that we are not cutting all the trees around Grassy Narrows. There's a plan that has patches being cut around the community of Grassy Narrows. There are also plans that are renewing previous cutovers around Grassy Narrows.

So it's an ongoing management process. There's a vibrant forest out there around that community now.

**Mr Parsons:** I agree, and I think you should have left them alone.

You're not suggesting that they agreed, in your initial consultations, to the plan? You're saying you consulted with them. Are you saying they agreed initially?

**Mr Thornton:** No. In the process of preparing a forest management plan we have a duty to consult, and that duty has been fulfilled there, but that's different than seeking the agreement of any party, whether it's a First Nation or a cottagers' association or a resource tourism outfit or whatever the case may be.

**Mr Willick:** Or a forest company.

**Mr Thornton:** Or a forest company. We ultimately make that decision based on a variety of sources of input on how a plan should be carried out, and ultimately it's the Ministry of Natural Resources that considers all those elements and approves a forest management plan.

**Mr Parsons:** You consulted one party 100% and another party 0%. To me, that's not consultation or compromise. There are an awful lot of trees in Ontario, and I'm dismayed you picked those particular ones that had that effect. You would not have cut down the trees around Rosedale in Toronto. You would have consulted, and you would not have done it. There are two tiers. I'm sorry; I believe there are two tiers in Ontario now.

A quick question, Richard?

**The Chair:** You have two minutes left in this round.

**Mr Patten:** Deputy, I'm going to ask you to look into something on the wildlife side. On September 12, conservation officers raided an urban wildlife centre in Ottawa and went away with ferocious baby raccoons—34 of them—and a skunk or two. They went in Gestapo-fashion, with protective gear. They isolated the media from looking at the area. There were three women and one man in there—volunteers and two staff. They took away these animals on the basis that they were vector animals and a major threat to the public health of the citizens of Ottawa. It was the most embarrassing thing I've ever seen, Deputy, and I think you would have been embarrassed had you been there. It was a big story in Ottawa.

I've made representations to the minister and to people in your ministry, and got no satisfactory answers at all. There's never been one case of rabies in the Ottawa area at all—never one case. They took these babies and off they went. They're now in research labs. They divided them up. It's not the way to go.

They imposed certain restrictions that essentially meant this 15-year-old centre, which received no money from MNR—it receives money from the city of Ottawa and from citizens in the area to sustain helping out with animals, mainly orphans, tiny animals. The regulations that have been imposed now obviously say the ministry doesn't welcome that kind of partnership with people and effectively shut them down. There are many, many people who were totally dismayed at that.

Knowing your interest, I believe, I think you would want to take a look at that. I would welcome a report on the rationale and the position the ministry would take in further working with the private sector, which it is, partnering with people. It doesn't cost you anything. Here is a ready-made situation of people dealing with animals in the urban environment in the most responsible fashion, with veterinarians, etc—at no cost to MNR—destroyed, closed down. Our people are dismayed. If you want to comment today, that's fine, but I ask that you please look into this and provide some kind of report on just why this would happen. It is most embarrassing.

**The Chair:** Do you have any comments?

**Mr Burke:** Yes, I do, Mr Chair. I'm actually quite familiar with the centre, having spent some of my life in the Ottawa area, as I'm sure the member is aware.

I can't discuss the specifics of the enforcement matter. There have been charges laid. Those matters are before the courts and, I assume, will be disposed of by the courts in due course. So I have no choice but to say that we really can't talk about anything to do with that particular activity. However, I can make some general comments.

I can tell you that the ministry never has any intentions about shutting down wildlife rehab centres. They're an essential fabric of what takes place in various communities. Ottawa, along with a couple of other communities, has invested through the community, mainly through the municipal council, to provide some assistance.

The decision to close the wildlife centre was not made by the ministry; it was made by the centre itself.

**Mr Patten:** Forced by the ministry.

**Mr Burke:** They chose to do that. In that particular case, we did remove some vector species, mainly skunks, raccoons and foxes, but they made up less than 20% of the total animals that were in that rehab centre. The rest of the animals were in no way affected.

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**Mr Patten:** That's not correct. That's not true.

**Mr Burke:** Rabies, just so everybody knows, is potentially fatal, and we're taking the necessary steps to protect the public in that community and indeed in any part of Ontario where we feel there is a threat to the safety of our communities and the spread of those deadly diseases. Our approach is designed to spread; it's a preventive measure. I don't think we'd be thanked very much if we simply allowed rabies to spread, took no action to prevent that and then all of a sudden we had major health risks in our community.

On the issue of rabies management, Ontario is recognized not just as a leader in Canada but as a world leader. We have done a lot of research in this area. We know how those species migrate, we know how quickly they move from one place to another and we know about how long it takes to get from one location to another. The manner in which we designate new areas is really based on where we found the last one that had traces of rabies, and we put a circle around that. In this particular case, it started to include the new boundaries of the city of Ottawa.

But we have worked not just with our partners here, but we—

**Mr Patten:** That's not correct. There was not—

**The Chair:** Just a minute, Mr Patten. The deputy has the floor, and I think he should be allowed to answer.

**Mr Patten:** There's not one case in Ottawa, not one case.

**Mr Burke:** Our expertise has been recognized in New York, which is an adjacent state to the province of Ontario, and indeed there have been numerous cases reported there. Vermont, Pennsylvania, Ohio and West Virginia, as well as the province of Quebec, have all come to our ministry to help them deal with these particular matters. So although I can't speak about the details of the case before the courts, I can tell you that we take our role very, very seriously and it's all motivated around health, public safety—not just to people, but to the animals as well, all of the animals.

**The Chair:** You've gone a couple of minutes over, and we'll take that off the next round that the Liberals have. Mr Bisson, you're next.

**Mr Bisson:** Thank you very much and welcome to our workplace. First of all, just for the record, often the MNR is much-maligned, and I just want to say that I deal with MNR staff throughout my district on a regular basis, in my own riding and other ridings, and you have some pretty professional people working for you who do a really good job, considering how short-staffed they are. That's one thing I am going to talk about a little bit later, but I just want to say up front that you really do have some people who really give two hoots about what they do and they really try to do a good job, so pass that back on to them. They are valued employees. They do good work. We're not always happy with decisions of the MNR, but we understand that you're sometimes boxed into a position of having to be the stewards of the forests, and that means to say that there are a whole bunch of people who would like to have end use, if you know what I mean. Often, we may not be happy with the final outcome, but I just want to say that in dealing with people like Dave Scott, whom you know quite well—I think he's an outstanding manager, and I think he does a great job. He's good at consulting with the community. People like Mr Galloway and others—you really have some good people.

The other thing is that I would also like to give my condolences for the tragedy that happened last month. I knew some of those people. That was hard to take for the families and those people associated, but I know within the family of the MNR that it was pretty difficult to take. So our condolences go to you.

Boy, I'd love to take our time today to deal with a whole bunch of issues other than forestry, because there are a whole bunch of other issues I'd love to go into some detail on, but we have the forestry experts here, so let's deal with that. I'm going to start in maybe a bit of a reverse order. I want to talk a little bit about one of the changes that has happened to the way we dispose of



wood off of private land, with regard to a change that I think was made through one of the red tape acts.

There used to be a process where if there was patented land—for example, vet lots, private lots—and a contractor wanted to get access to that wood in order to cut it and sell it to whatever mill, the contractor would identify private land that was possibly available, either for sale or some sort of contract with the owner of the land, to cut the trees. If they came to an agreement, the contractor would go to the ministry, make application and then you would do a release of pine. Normally, that's the way it went. You didn't release all trees; you just released the spruce itself or whatever it was the person was trying to cut.

That process of being able to go into the ministry office in Timmins or Hearst or wherever it might be, make application and actually have a licence used to get done in one day. I remember when I was first elected back in 1990, we used to do a lot of that. Often people would go in, they'd make their application and they would get the release to cut the trees the same day. It has become a little bit more onerous over the years because of the reduction of staff. It took up to two to four weeks in the past. Now what's happened, because of the changes to the red tape act, people have had applications in there for over a year and a half and are unable to get their releases, which is a heck of a problem.

What I'm being told by your staff is that part of the problem is that the regulatory change puts the ministry in a weird position because they have to release all trees, as a question of liability, to the ministry, as to its other responsibilities vis-à-vis the forest.

Mr Thornton, you're director of forest management; you're probably on top of this. When can we expect that there's going to be a resolution to the issue of the release of trees off private land, considering where we're at? There are a lot of people out there who are pretty upset about that.

**Mr Thornton:** It's a good question; it is one that we're familiar with. Just to give the committee some sense of the unusual situation that we're describing there, this is a situation where although the land is privately held, the trees on that land may belong to the crown. Even more strangely, only certain species of trees on that private land may belong to the crown—pine trees, for example. This goes back to the days of the settlement of the province, where pine trees were reserved for the masts in the sailing ships of Her Majesty's fleet.

**Mr Bisson:** I'm glad you know that. Not a lot of people know that's where it comes from. Good for you.

**Mr Thornton:** Those conditions have carried forward for many years on those properties. To make it even more complicated, even though the crown owns some or all of those tree species on this private land, in some instances we do—in others, we do not—have permission to enter into forestry and undertake forest renewal activities once those trees are harvested. So that's the hodgepodge that we've inherited, and you're correct: those are largely on veteran lots, as they're called.

**The Chair:** Could I just ask a question here? Do I understand that in effect the crown excluded these trees from the grant that was given to the private owners?

**Mr Thornton:** In many instances that was the nature of the grant itself. These were grants made to war veterans, usually of the Boer War, and those conditions have perpetuated. So that's the very unusual nature that we find ourselves in.

You are correct. It is taking more time to get those releases and that's something we need to put more effort toward. What we would like to do is, frankly, in many cases, get out of the business. We think it's a very complicated arrangement where a landowner owns land but not the trees. We would like to see a situation where increasingly those trees are released from the crown—in essence, purchased by the property owner—and then we also dissolve ourselves of the obligation to undertake forestry and to renew those areas once harvested. So that's, in general terms, the direction we're moving in.

Where we do have in some instances a high concentration of crown timber on private land, there is an effort to try to manage that in a more comprehensive fashion to provide a wood supply for the local areas, and I think particularly of the Kirkland Lake area, where we have higher concentrations of this.

So that's the dilemma we find ourselves in. In one instance, where these are isolated parcels of land, they're not contributing in a more comprehensive sense to a crown wood supply, we would like to get out of the business and have the property owner own those trees. In others, there is an argument to be made to provide a more comprehensive approach to managing that crown timber resource on the private lands.

What I will do, Mr Bisson, is get in touch with our staff in Timmins district, and I know some of the—

**Mr Bisson:** I've met with some of them already.

**Mr Thornton:** We'll try to put some further effort toward this.

**Mr Bisson:** There are some policy questions I have around your response, but let's first of all deal with the request. I have companies like Timmins Forest Products, Nadeau enterprises and others that I've been dealing with that have this problem.

Here's my problem. I understand that we're drafting a new policy, for the reasons that you've explained. But what's happening is that these particular businesses are caught up in the transition.

**Mr Thornton:** Yes.

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**Mr Bisson:** Whereas before, they used to be able to get the release, they're now not able to get the release on this land because of what you just explained. Is it possible, at the very least, to allow the releases to happen under the old policy until such time as you have actually done the work you need to do, to where it is that you're trying to be as far as releasing all the trees to the private lands, so that we can at least unstick these release requests? Is that a possibility?

**Mr Thornton:** I can't say for certain. I, like you, want to expedite this process, but at the same time I want to operate within the law in doing that. I will commit to put some additional resources towards trying to resolve this situation.

It's further complicated in issues of payment of crown charges associated with that crown timber as well—

**Mr Bisson:** We're going to get to that.

**Mr Thornton:** —and whether or not crown charges should be paid on those lands if the crown timber is being released. It's a complex piece of business. As I say, I'll undertake to follow up on that.

**Mr Bisson:** There's something I'm a little bit unclear on. Aside from the policy—we'll deal with that afterwards with regard to stumpage fees; we'll come to all of that later—what I'm having a bit of a hard time trying to understand is, how would the ministry be in contravention of anything if it followed its own old policy that was in place for a number of years? Is that the issue? Is there something that makes it that if you release the pine while you're developing a new policy, somehow you're not in compliance? I don't understand why you can't do that.

**Mr Thornton:** Some of the changes we are trying to bring forward will expedite that. It's a question of now being in this transition from old to new that seems to be slowing things down. As I say, we will put some additional resources to try to—

**Mr Bisson:** Can I ask you this, and what I'm looking for is a yes answer, by the way: can we at the very least give the releases as per the old policy for those people who have applications before the ministry now, until such time that you actually finish your policy?

**Mr Thornton:** I can't say categorically yes, because I don't know the peculiarities of each individual circumstance.

**Mr Bisson:** From a policy standpoint, what would prevent you? That's what we're having a problem trying to get our heads around. What prevents you from doing that?

**Mr Thornton:** I really can't give you a detailed answer right now, because that situation is so peculiar to the actual terms of a patent for the private land. That's the issue; we can't make a sweeping generalization as to how each individual case is going to—

**Mr Bisson:** Can I ask you this favour, then? This committee is going to be meeting for a while. Can you go away and talk to your people and come back and give me an answer for that?

**Mr Thornton:** I probably can't do it today. I'll certainly endeavour to do that within the next few days.

**Mr Bisson:** I'm sure you can make anything happen today if you want. I remember how it works.

**Mr Thornton:** I'd be more than willing to follow up within a few days.

**Mr Bisson:** You understand what my concern is. My concern is that these people have been in business for a long time and they've got an impediment now because of this policy change. The government's intention on the

Red Tape Commission was to facilitate the release quicker. The effect has been that it has blocked the release. So it's kind of hard, from their perspective, to go on and do what they've got to do with their own business when it comes to forestry activities. Where I'm having a problem—and in talking to local ministry people, they've been pretty good about this; they've been working with us to try to find a solution—is that I'm not sure if it's a question that if they tried to follow the old policy, somehow they would be in contravention. If that's the case, I don't understand why. It doesn't make any sense. Directly, what I'm asking is if you can get back to me. I'll leave you my number—

**Mr Thornton:** Sure.

**Mr Bisson:** —and you can get back to me. Can we unstuck those applications that are there now? That's the thing.

Now, from a policy perspective, as I understand it on those vet lots, there is no requirement for reforestation. Am I incorrect in understanding that?

**Mr Thornton:** I can't say categorically without looking at the individual property itself.

**Mr Bisson:** There are a number of those privately owned lots that are owned by individuals, or vet lots, or old mining claims where there might have been a release needed for trees where, if the contractor goes in to cut, there's no obligation to reforest. Am I correct?

**Mr Thornton:** Yes. There are some situations as you've described.

**Mr Bisson:** And the sustainable forest redevelopment act does not require a forest management plan and reforestation as per the act. It doesn't include private land. So my question is, I'm correct in understanding there probably has not been any work done with regard to looking at legislation that would deal with good forest practices on private land because of the property rights issue?

**Mr Thornton:** Yes. To answer that question more fully, it's really a question of whether or not we have jurisdiction for privately owned timber on private land. The answer is no. To the extent there is any authority, it is authority, as the deputy has described, that passes through municipalities for bylaws.

**Mr Bisson:** I'm just going to walk this through the three different types of scenario. For the individual who owns the land outright, I understand why the ministry doesn't have a policy, because it would step on the person's property rights. But in those instances where a mining company has a claim and that claim has come to patent and you still own the trees, what prevents us from making sure that in those cases or in the case of vet lots there isn't some requirement to make sure good forestry practices go on on those lots? Is there an impediment?

**Mr Thornton:** This is the situation we've described in Kirkland Lake. We have some authority to do that under the crown forest act, I believe, because those are considered crown—

**Mr Bisson:** For the patented lots?



**Mr Thornton:** Yes, because I believe those are considered crown timber. I'll turn to Mr Kennedy here. I believe that is the coverage that the act provides.

**Mr Frank Kennedy:** It does provide for coverage for crown timber on crown lands, yes.

**Mr Bisson:** The question of lands that are owned by mining companies, they would also be viewed as crown land because you never release the wood, right?

**Mr Kennedy:** No, I believe that's incorrect.

**Mr Bisson:** I just want to make sure I understand, so help me out here.

**Mr Kennedy:** Just the crown trees.

**Mr Bisson:** That's right. So I did understand it correctly. Where I'm going with this is that one of the complaints you get from the people who do the cutting of the trees is that they're charged a full stumpage by the ministry. In fact, I think they're charged a bit more than you would be if you had a licence on crown land, if I understand correctly, right?

**Mr Thornton:** I don't know why they would be charged any more. If it's crown timber, the rate for crown timber applies equally on whether the land—

**Mr Bisson:** If there is no reforestation going on, the question is, why are we taking that part of the stumpage as revenue when there is no requirement for the ministry or that individual to do reforestation? Either we have a policy that we do the proper planning and reforestation—and take that charge and do as we do with current people who have a licence, which is, take that money and put it into a trust. If they do the job, fine, they get it back, and if they don't, we have the money to go out and fix the problem. Why don't we do that with those private lands if we're going to be taking that money into trust or taking that money as revenue?

**Mr Thornton:** Those are exactly some of the changes we've contemplating now that haven't made it through the system yet. We do agree that there are circumstances where a person could be paying a forest renewal charge for an area that would not be renewed. We need to examine the utility of doing that.

**Mr Bisson:** A whole bunch of policy questions come out of that. I think I understood what you said as being a little bit further than where I thought you were at the ministry. You're saying that the ministry, through this policy of releases—or is this a separate process?

**Mr Thornton:** It's all part of the same issue—

**Mr Bisson:** The same thing? OK.

**Mr Thornton:** —the question of whether it is reasonable to continue to charge a forest renewal component. Actually, it's more precisely the forestry futures trust component of that crown charge, where in fact there may not be renewal work or they may not be eligible for some of the monies they would pay into the trust.

**Mr Bisson:** So you're looking at having a separate stumpage fee for those types of forest activities based on whether you decide, yes or no, to force those contractors to live up to the Crown Forest Sustainability Act?

**Mr Thornton:** That's right.

**Mr Bisson:** So you may very well decide to reduce the fee.

**Mr Thornton:** That's under consideration. I can't say that will be the result.

**Mr Bisson:** No, no, it might go one way or the other. By when do you expect to have that decision made—ballpark? I'm not going to hold you to it to say May 2 or something.

**Mr Thornton:** It will be measured in months, not weeks.

**Mr Bisson:** That's what I'm asking.

**Mr Thornton:** Yes.

**Mr Bisson:** Is it not over a year?

**Mr Thornton:** Is it not over a year since—

**Mr Bisson:** No. Within a year you expect to have that decision made?

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**Mr Thornton:** I will do my best to do that within a year, yes. Remember, not all of this is within my control. Obviously if we're considering changes to either the act or its regulations, those require the involvement of—

**Mr Bisson:** I can report that back. I'm not putting words in your mouth. I just want to be very clear that the ministry in those cases is reviewing the whole policy of stumpage. You will either (a) come back and say, "We will reduce your stumpage fee by the amount that would normally go toward reforestation" or (b) "We will collect it and you will be treated like somebody who has a sustainable forest redevelopment licence." It will be one or the other.

**Mr Thornton:** Those will be among the options we will examine. There may be others.

**Mr Bisson:** Oh, really? What others might there be?

**Mr Thornton:** The status quo may be the other.

**Mr Bisson:** I would hope that we wouldn't do that, because, to me, it's totally unfair and is not a sustainable prospect. Either we take responsibility for that crown forest and we treat them just as we would somebody who had a licence or, if you take the position that it's private land and we don't want the trees any more, then it seems to me the ministry has another decision to make, which is to reduce the stumpage, which will be quite interesting when it comes to the little argument we're having with our friends south of the border. That's a whole other issue.

The other question that flows from that is, in the past the ministry went out and surveyed the area before they disposed of areas that were allowed to be cut so that you knew just how many trees were in that block. You will remember that you used to go into the ministry and they would have those maps, and you'd look at it and they'd tell you that you had so much percentage of trees of certain diameters, so that when you gave the licensee the go-ahead to cut, you guys used to know how many trees were in those blocks you were giving them permission to cut on. Over the years, that has now become the responsibility of the forest company because we've basically transferred that all over to them.

My understanding is that if you're a licence holder, such as Tembec or Abitibi, if you look at a block of wood you're going to cut, you have to go in and do a survey to determine how much wood is in there. So you walk in and take a look at how much wood is there, you make a report and you sample—I think it's 2% or 3% of the block you want to cut. If a contractor is cutting on a private lot, the percentage required on the part of the ministry is much higher. Why is that?

**Mr Thornton:** I'm not certain of the context for the question. I'll begin with the crown land example you gave. Right now, no pre-assessment of the nature you've described is required either by the crown or by the company prior to timber harvesting operations commencing. That information you've described is often available through maps, a forest resource inventory that's prepared that would in general terms describe the size of the area and the tree species involved. There would be some assumptions made based on historical understandings of what volume of timber to expect from that area. For our purposes, we don't track the volume of wood by individual block. All wood, though, is weighed or scaled in some fashion to collect crown dues.

**Mr Bisson:** That's right.

**Mr Thornton:** So that's the situation on crown land. On private land, how they assess the volume of wood and therefore the value it may represent in the market is really a matter that's up to the land holder.

**Mr Bisson:** I'm going to go back through my notes and get the actual term, but as I understand it, there's a different onus of requirement on how you assess how much timber you have on a block of wood for a forest company like Abitibi versus how you would deal with the private contractor. It's adding to the overall cost of their preparing their applications for release of trees. I'll go back and get the details. I may not be explaining it quite right, so I'll come back to that.

How much time?

**The Chair:** You're at 20 minutes.

**Mr Bisson:** You're kidding. I was just warming up.

**The Chair:** You'll get a chance to continue shortly.

**Mr Bisson:** It's hardly fair.

**The Chair:** Oh, I think we're trying to be fair.

**Mr Bisson:** I think the Conservative caucus wants to move a motion that I just continue.

**The Chair:** I don't hear such a motion. I'll turn it over to the government caucus.

**Mr AL McDonald (Nipissing):** We're happy to let Mr Bisson ask further questions as we go around again. He did state that he was just warming up, and it's pretty tough to get warmed up in this room, because it's pretty cool. I don't know if that's a nice, warm reception for northerners like Mr Bisson and myself. Mr Burke, you did work for the city of North Bay for a couple of years, so welcome. It's nice to see a fellow northerner.

We too, as a caucus, would like to pass on our thoughts and prayers to the families of those individuals who died in that accident, and also to their fellow employees who worked so hard for us in the north.

Sometimes we take the job they do—I don't think the public understands how difficult it can be at times. They're out there protecting our natural resources, and at times that can be a risky job. We appreciate what these employees do and how they protect our forests and our wildlife. I just want to pass that on to start with.

I was listening carefully to your comments when you came in, and I just wanted to get something clear. Was it one third of 1% of our forests that are harvested every year? Was that the figure you used?

**Mr Burke:** That is correct.

**Mr McDonald:** Because sometimes as individuals, in the newspaper or on television, they just see a big thing of trees gone, and you kind of get the impression that we're decimating the forests. But when you said only one third of 1%—that's just a tiny portion of our forests. That's incredible.

As a northerner I'm concerned about northern Ontario, and forestry is very important to us in the north. Maybe you could just briefly talk about the economics of forestry for the province of Ontario and how it relates to northern Ontario.

**Mr Burke:** Yes, I'd certainly be prepared to make a few comments on that. As I did say in my opening remarks, there are really over 40 communities in Ontario, mainly in northern Ontario, that depend on forest operations as a primary part of those communities' economy. Many of them are quite dependent on that, and the health of that community is extremely important to them as well.

We have about 200 to 250 mills in Ontario. These are various facilities scattered not exclusively in northern Ontario, but certainly mainly in northern Ontario, that provide about 60,000 to 70,000 jobs to individuals. The economic value of all of that sector business is about \$16 billion a year. So it's a big part of northern Ontario, it's a big part of northern communities in Ontario and it's a big part of the economy of the entire province. In terms of indirect jobs, you could probably closely double that number of 60,000 to 70,000 jobs. So it has a major, major impact.

When you consider that at least part of that activity is generated on one third of 1% of all the forested lands—not all the lands in Ontario, just the forested lands; forested lands account for about two thirds of the entire land mass of Ontario—it's really quite amazing that that proportion of resource can result in such a huge economic return for the people in our province. Those are some of the key numbers that we work with every day and we're reminded constantly by people in the northern communities around these various issues, keeping that economy vibrant—and there are threats to that economy, as you know. There are threats, certainly, in terms of our products being sold internationally, particularly through softwood lumber; we know the threats that are associated with that. But I think our ministry does really quite a good job in trying to balance all of those competing interests and at the same time ensure that we get a maximum



return for those Ontario-based assets and ensure the vibrancy of as many of those communities as we can.

**Mr McDonald:** Just to get back to your one third of 1%, harvesting forests, especially for the forest industry and the logging industry—the fact that we're managing our forests in such a way, when we go in and cut down certain areas, I guess that helps the forests regenerate, right? It creates an opportunity for the forest to become stronger, because a lot of these trees might just be diseased or die as they get older, and it might cause us problems further down the road. Where is that in the mixture of the harvesting of forests?

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**Mr Burke:** I'll just make a couple of comments. The questions on the actual regeneration of the forests and the activities that take place are probably better answered by the colleagues on either side of me. We do have guidelines and we do have forest management policies and practices. I've described a variety of different manuals we use. These are all tools in our tool set and our tool kit that assist us in first of all identifying what's available to be harvested, the proximity to market or the market conditions that run with that, and the licence conditions on the mills that accept a lot of this product that gets harvested along the way. We also don't just go in and, if I can say this, cut things indiscriminately. There are plans and there are blocks and there are practices and policies that are followed in accordance to what we believe to be the best forest practices available. So we have policies around how large clear-cuts should be, what their pattern of cutting should be in a particular area.

We also have guides around what we call natural disturbances. Just because we don't cut a tree down doesn't mean that the forest isn't regenerating one way or another. That'll happen through insects, disease, fire, weather conditions like drought and so on—

**Mr Patten:** Ice storms.

**Mr Burke:** —and ice storms, as we've experienced in some parts of the province.

So there is a whole range of these types of standards, I guess, put in place that guide us and guide the industry as these activities take place. But in terms of specifics, Mr Willick might want to respond a bit more in detail.

**Mr Willick:** Thanks, John. Just quickly, regeneration in this province is a good-news story. The Crown Forest Sustainability Act commands that all the area be successfully regenerated. The State of the Forest Report that came out in 2001 pointed out that the surveys we're doing now show that 86% of the land that's surveyed is making the grade on the first test; it's being successfully regenerated. The other 14% are not failures; they just haven't made the grade yet. They will be successfully regenerated shortly. They might not be tall enough yet. There are a number of reasons for not meeting the standard at that particular time.

The good news is that during the period of 1995 to 2000, the area that is successfully regenerated is actually larger than the area that's harvested. So the trend is in the right direction.

**Mr McDonald:** I guess the impression we sometimes get as laymen is that forestry is bad. But in actuality, if we could educate the public, not only is it good for our natural resources and good for our forests, it's good for economic development and it creates jobs, particularly in the north, because it's very important. Sometimes that message is very difficult to get out, isn't it?

**Mr Willick:** It is a very difficult message, and foresters aren't good at getting that message out. It's a good-news story that we should spread more widely.

The forests are better. We have a balance now; we have a balance between protected areas and renewed areas. We're recognizing values in protecting biodiversity and so on, and at the same time growing new forests that are probably of better quality, closer to the mills, with more volume per acre. Things are improving.

**Mr Burke:** I'd just like to add one comment that Mr Willick reminded me of, and that is that when we think of activities in the forests, we think about the cutting piece of it. You've seen the photos that people will sometimes display that may have a message associated with them. I'm certainly not denying their opportunity to get their views across one way or another. But when we look at the crown areas and look at the various land uses that take place, everything from remote tourism, to harvesting of timber, to parks and protected areas, we have decided within what we call the area of undertaking—this is the area that's been licensed, essentially, and for which environmental rules have been put in place on how to harvest—we'd like to have about 12% of the land set aside as parks and protected areas. These are protected indefinitely for the future and are set aside. They're just as much a part of the ecosystem-based approach we take around harvesting as is setting aside land for future purposes through parks and protected areas.

So it's not just about harvesting as a discrete operation with no regard for impact on wildlife and on economy. It's social, it's environmental—it's all those factors taken into account, including social, that to me makes that balance work on a sustainable basis so we're not just taking today without regard for what this thing is going to look like in the future.

**Mr McDonald:** I agree that maybe the forest industry could probably get their message out there a little bit more for us. Sometimes maybe the people of southern Ontario don't really understand everything that goes on in northern Ontario, but it's being well managed, it's good for our forests, it's good for our economy and it creates economic development in the north. That's kind of the message. I'm glad to hear you agree with that as well.

I just want to touch on something you said about forest fires. We have a plant to build water bombers up at the airport in the city of North Bay, and MNR has bought, I believe, nine water bombers. When I was speaking with the minister, I didn't realize that forest fires create—what is it?—40% of the air pollution in Ontario. Is that correct?



**Mr Burke:** I've never heard a number. I can assure you that it's a substantial amount of airborne outfall, but I'm not quite sure about the percentage. I haven't checked that.

**Mr McDonald:** Having said that, and the fact that we're always concerned about our environment and that we now understand that harvesting the forest is good for us, are we doing enough to protect our forests, particularly in the north, when we consider that if a forest fire goes through, it does more damage than forestry does and, the other part of it, it creates problems in our environment? Are we doing enough to protect our forests?

**Mr Burke:** Again, I can make a few introductory comments and perhaps my colleagues can chime in.

Forest fire management is extremely important to us. It's one of our core, major activities to protect not just the forest resources that are out there but all the other values that are there: wildlife and, quite frankly, the communities and human side of this as well. In the area of undertaking—the area that has been identified under environmental rules for harvesting—we have a very elaborate, very comprehensive plan of fire protection. As you know, there are a number of First Nations communities within that area as well, so we find the human safety side an extremely important part of that whole program.

We do have some priorities with respect to those areas, so we watch the indicators around what's vulnerable, how much fuel is really out there, what the weather conditions are. All those are taken into account as we develop our fire plans year after year. Last year, for example, we had quite a number of fires, but they were essentially contained, in part I think because of the superior equipment we have to deal with fires. The nine water bombers are state-of-the-art pieces of equipment. They're very fast, very efficient, very quick at suppression and obviously have been effective in reducing the number of losses of these resources to fire. Contrast that with the west, and in particular the US northwest, which has had very severe fire conditions, mostly weather-related, where we in fact have had to send our own equipment to assist some of these communities to deal with the fire situation.

But on balance, I think we have a very well equipped fire service. We've been able to contain many of the fires, although you can't contain the weather, and to a large extent that may determine how extensive your losses are, year over year. We also work with the federal government, mainly through Indian and Northern Affairs, to provide protection to the aboriginal communities, First Nations communities and so on. So on balance, we're very much focused on having a program that protects our values to the maximum extent we can and at the same time have resources available to assist our colleagues when we're able to do that.

1130

**Mr McDonald:** I know they manufacture or put together these 415 water bombers in North Bay. It's nice to hear we're loaning our equipment to other jurisdictions

that might need it, although they're actually thinking of cancelling that whole water bomber project because other areas of Canada and the United States aren't following the lead of Ontario in updating their equipment. I think that sometimes by helping these other areas, sure it's protecting their resources, but it's hurting us as well in northern Ontario, because we want to market these water bombers not only across Canada but across the world. I hope we're not leaving ourselves open a bit, that when we send some of these water bombers to other areas to help them we're not protecting our province. I might encourage you to talk to your colleagues in other areas of Canada and the world and ask them to consider buying their own water bombers.

I want to switch gears. Chair, do I have five minutes left?

**The Chair:** There are about five or six minutes left. Mr Hastings wants to ask a question as well. But you work it out; you have the floor.

**Mr McDonald:** OK.

I spoke with a few of our lumbering and logging companies in the north, like Tembec and Columbia. We've seen some layoffs because of the dispute that's going on. I've written a letter to Minister Pettigrew and have received correspondence back, but it was basically, "Thanks for your letter. We're looking into it." The gravity in the north is huge. We've lost a shift in Mattawa, and there are some problems over in Sturgeon Falls. What is your ministry doing to help this process along, in standing up for Canadians, Ontarians and, more importantly, closer to me, northern Ontarians, because that's having a big effect on our economy in the north?

**Mr Burke:** I think I'll ask Mike Willick to give you that description, because he has been, as they say, on the front bench in dealing with our sister provinces, the federal government and the US government on the matter of softwood lumber.

**Mr Willick:** This is a really serious situation. The duties that will be on deposit from the industry in Ontario could be \$250 million per year, so you have to wonder how long the industry would be able to sustain those costs. The position of the provinces from the beginning has been that the Americans are unjust in bringing their charge of a countervailing duty. We are challenging them at the World Trade Organization through the federal government, and we're challenging them under the North American free trade agreement. So we have a full press regarding the litigation side of things.

At the same time, reasonable people would look for a long-term solution. We've had messages from the Department of Commerce that said they think they might be able to work out a way that would provide for a long-term solution. So we're keeping the litigation side going full tilt. At the same time, we're talking to them about what a negotiated solution might look like.

The negotiated solution takes two tracks. We're talking about a changed circumstance review within their system that says, "We've said all along that we charge enough for our trees in this province. In fact, if you don't



believe us, we will compare our stumpage—what we charge for trees—with other jurisdictions and what they are getting.” That would fit within the changed circumstance review. If we say we’re going to make a few policy changes here and there and we’re going to change the way—instead of having the administered pricing system that’s a formula, we were going to benchmark against some other jurisdictions, that might lead us to a changed circumstance review, and it might get us a long-term solution to this problem.

While that is going on, we’re also talking about an interim agreement. An interim agreement would change the countervailing duty to a border tax that would be administered by the federal government. Those discussions just restarted last week and are ongoing this week too, so it’s a work in progress. We take it very seriously, and we are pressing forward on all fronts to make sure the province is properly represented within Canada and with the Department of Commerce.

**Mr McDonald:** On behalf of the employees who are still employed in the forest industry and those who have just lost their jobs and want them back, I encourage you to be as aggressive as possible to get a solution to this disagreement with the United States. From what I understand, it’s unjust as well. We all, especially in the north, would like to see some agreement so we can get these people back working in this industry, particularly in northern Ontario.

**Mr Burke:** If I could just add a comment to that, I agree entirely with you, and that’s precisely what our strategy is in working with that. But ultimately what we’re after is unfettered access to the markets. So if we get an agreement—as we got the last time around—that’s simply an agreement to delay an ultimate solution by a few years, you always come back to where you ended just a few years earlier, and we’d like to avoid that if possible this time around. But you’re absolutely right in terms of doing the best we can for today as well as for the future in protecting these jobs.

**The Chair:** We’ll now turn back to the official opposition.

**Mr Parsons:** You’ve indicated that there are some things you can talk about on the Ottawa Wildlife Centre. I’d like to go back briefly and touch on it, because I’m concerned that material I’ve seen from MNR may not be the same material you’ve seen from your staff. I’m going to run through it as I understand it, and I would appreciate correction on that.

My understanding is that last year there were about six rabies cases in Ontario. The numbers show 10, but the staff indicated that four of them were from the previous year and were brought forward and reported in the new year. MNR staff have provided me with maps indicating where the rabies cases are, plotted on a map, and showing that rabies is moving south and west from the core area, which is well south of Ottawa. So your ministry made the decision to move the zone north and east from it, although there were never actually any rabies cases in Ottawa.

The wildlife centre in Ottawa had a licence from your ministry providing them with an exemption from the rule that an animal brought into their care had to be released within one kilometre of where it was found. They had this licence because they felt that returning a raccoon to Rideau Street in Ottawa was probably not in the best interests of the raccoon in the long run.

**Mr Burke:** Baby raccoons.

**Mr Parsons:** Baby raccoons. They crazily went on the Queensway and really shouldn’t be returned there.

So they had this exemption, which was great. Your ministry revoked that licence allowing them an exemption. Then they went and got a court order to seize the animals. I understand that. Where I’m not clear is, they brought in about 40 to 50 officers of various types to apprehend these three women and one man volunteer. They drew up a perimeter of police officers around the centre so that media could not get in. They then went to the Ottawa Wildlife Centre—these were OPP and Ottawa police plus your own officers—and, rather than knocking on the door and demonstrating the court order, one officer in plain clothes went up with a box with some fur in it and indicated that he had found this animal. The wildlife centre indicated that they were not permitted by MNR to accept the animal. As I understand it, your employee said, “Well, can you at least look at it?” and when the door was opened, they rushed in. The women were threatened with being put in handcuffs. I don’t believe the provincial police apprehended Karla Homolka with the energy and number of people who went into getting these raccoons out.

I visited the site after, and some of the doors had been broken down to get the animals. What I found intriguing was that the doors could not be locked. The doors were not locked. There’s what’s called a “handle” on them, which could have been turned and the door would have opened, but instead the doors were kicked down.

**1140**

The animals were taken—they’re actually at Codrington right now. Interestingly, your staff has indicated that each of them is in a separate cage. Now, that’s contrary to MNR regulations, to have them in a separate cage. The wildlife centre would have been shut down had they done that, but the MNR is not following MNR regulations and your staff, as recently as two weeks ago, said they’re in separate cages. Being a social animal, that dooms them from ever being able to be released, according to your staff. I’m not a raccoon expert. I’ve hit one or two on the highway, but I’m not a raccoon expert.

So they’re there. We can argue over what the incubation period is for rabies and how long to keep them, remembering they were brought from an area that has no rabies. MNR did question the rabies vaccinations that the animals had been given. They then decided it was OK when it was pointed out that they in fact had provided the vaccine. So your staff did approve their own vaccine on that, eventually.

They’ve been kept there for what is about three times the normal length of time that they would be kept there.



So I guess I'm intrigued by the need to have 40 or 50 police officers. These women are not particularly violent. I'm intrigued that this massive program on rabies and this massive raid occurred at the same time as the funding for that program was about to expire, and I'm going to be quite blunt. I guess you don't get refunding for a program if there ain't no rabies. That's the sense in the community. The wildlife centre has served a phenomenal role for that community, as you have suggested, and have obeyed every regulation, would have opened the door to people if they had knocked on it, would have honoured any court order or injunction. What in the world was going through people's minds to amass officers from all over Ontario to raid this centre? It is beyond my comprehension.

**Mr Burke:** Let me just restate that all of those enforcement activities you've described and allege were taken against the Ottawa-Carleton wildlife centres are matters before the courts, and I respectfully suggest that I cannot really comment on that. Indeed, I am told that I ought not to comment on it, so I won't comment on it and imperil any of that court matter that's being directed right now.

I can, however, tell you that we take what we do on rabies care and control very seriously. Perhaps the reason we have so few cases is because of the preventive measures we take. If we err on the side of caution when it comes to public health and safety, then we're guilty, and quite frankly we don't mind being guilty of that. I would not want to be guilty of having sat back and done nothing when indeed we could have taken preventive measures. I'm sure you're seeing right now lots of discussion around things like the West Nile virus: are we doing enough, are we doing what can be done? It, too, is a threat to human health, and I'm not hearing too many voices from the public saying, "We think you're doing too much in that area. Could you please roll that back a bit?"

In terms of funding the program, our funding comes to us every year. We have to justify it, just as we do every other funding request we have. I've never heard that there might be a correlation between a particular enforcement action and our theatrics, as one may describe it, around that somehow being associated with justifying funds or resources needed for the continuation of a program. This program is funded because the government understands that there is a serious threat. Our science community certainly understands that it's a serious threat.

It is not just the staff who administer the rabies program, many of whom are in fact not here in this room today, who make decisions around what treatment to apply, what type of vaccination to apply, how the animals ought to be treated or located, how far these concentric circles of protection ought to extend; we in fact are assisted by a very capable and able group of scientists and medical practitioners who work with our staff. They are not provincial staff members. They're not Ontario public servants in the sense that we are. They are people

from the science community who know rabies, know its behaviours, know how it works. They know the pattern of migration of animals that have this particular disease and understand how the disease is transmitted by what we call vector species; these are species that will allow that disease to be passed on from animal to animal.

We have put a lot of thought and effort into what we do, not just artistic effort, very much science-based and research-based effort on our part, in fact doing it so well that jurisdictions in the US and elsewhere come to us asking us for our advice on how to conduct programs in their own communities.

It wasn't that many years ago when the state of New York had over 1,000 rabies cases. New York, as we know, is immediately adjacent to certain parts of Ontario, and it was a very simple trek for some of these animals to move here. We've managed to keep it down considerably because of preventive measures. As I said earlier, prevention may not have the same sizzle as acute care, but I can assure you that I would much rather, as I said earlier, be found guilty of having been overly cautious on this than of not having taken the evidence that was before us seriously.

**Mr Parsons:** Let's assume you're right on the rabies, and you may very well be. I guess my other challenge to you is, how many police does it take to overpower four volunteers?

**Mr Burke:** I guess we'll have to let the courts decide on the propriety of that.

**Mr Patten:** They're not deciding that.

**Mr Parsons:** That's not the issue before the courts. I'm sure you're aware it's not the issue before the courts.

**Mr Burke:** I'm sure if there is evidence, that evidence will be submitted.

**Mr Parsons:** The charges were laid by your ministry, and the charges do not relate at all. There are no charges—I would suggest to you there should be an inquiry. I would suggest at the very least there should be an inquiry to learn why four Ontario citizens were subject to a massive takedown with far greater numbers of officers than have been used on the Hells Angels or on murderers. It's absolutely astounding. I'm sure you would be interested to find out why your officer did not simply knock on the door and present the court order. I think that would have been the very least to expect. Leave the rabies aside, leave the charges aside; there are other issues in there that should be very disturbing to you. I challenge you to revisit that and find out who made the decision to bring that in.

We've been contacted individually by OPP and Ottawa police officers who were embarrassed to be part of it, had no idea why they were there and were embarrassed about it after.

I would like to add to what Mr Bisson said earlier about the quality of your people. I have been impressed phenomenally with individuals who are working for you in the field. The problem is, there aren't enough of them. I have talked to biologists and scientists I think are brilliant who are working for you, but biologists with not



enough budget to buy gas to put in the boat to go out on the lake to do it. The ministry has abdicated a lot of responsibilities not because of a conscious decision on your part but simply because of lack of funding.

I want to go back to an answer you gave earlier that I should have twigged to faster. That comment was that the ministry no longer has to sign off on a municipality passing a bylaw relating to tree cutting. So it is out of your jurisdiction. While I talked about your making a template, it struck me after that for a ministry that has the responsibility of forest management, you've just abdicated part of that. You probably don't have personnel to do it, but you have turned over part of your responsibility to the municipalities, and municipalities don't have the resources, don't have the scientists, don't have the data to do it. You have world experts in your ministry and now there's this area where you're saying you're not going to be involved. I'm dismayed at that.

Noted out of the auditor's report—I guess, quite frankly, I'm a believer that when we go to self-policing, there don't seem to be many offences after that. You're doing self-policing in the forest industry, yet if I suggest we're going to do self-policing for speeding on the 401, I don't think there'd be a lot of people pull in and report that they'd exceeded the speed limit somewhere. I would suggest to you that industry, particularly the timber industry, is having some tough times. They're in a fight for survival. I would suggest that for much of our timber industry, they can't think 20 and 30 years ahead; they're thinking this year and next year and getting through, with the softwood lumber dispute.

**1150**

Our forest companies are doing the best they can to stay in business, and I applaud that. They have to stay alive. But they may have the need to look at this year and in five years; you have a responsibility to look 20 years, 40 years. The Mohawks of the Bay of Quinte in my riding have an expression that their responsibility is to think seven generations ahead, and I think that's a model the rest of us could go by.

So the recommendation from the auditor has been that self-inspections don't seem to find anywhere near the number of problems as MNR inspections. How many people do you have in your ministry who do the MNR inspections, to audit the private?

**Mr Burke:** I will have Mr Thornton, who is familiar with that, respond to your questions on compliance.

**Mr Thornton:** I can't give you a precise number of staff who do compliance. I should point out that that work is normally done by our field organization, where we have foresters and forest technicians and others who participate in that. But what I would like to do to give you some sense of that level of activity is describe to you the number of inspections that are taking place out there. As you point out correctly, there has been a change in responsibility where, since 1998, the forest industry has taken on an increasing role in undertaking these inspections, but MNR continues to undertake spot checks as well.

I'll read to you some of the numbers that are available now to the public in our annual report on forest management, dated 2000-01. In that, on page 74, table 10, are some statistics that describe this level of effort on compliance inspection reports. In general terms for the year most recently reported here, we're seeing the total number of inspections that are undertaken by the forest industry on the order of 6,000, and those undertaken by MNR about 2,300. That's the third year in a row of continuing increases in the number of inspections that have been undertaken by the forest industry. During that same period, there has been a slight decline in the number of MNR inspections, and that's part of that transition that we've described, we've put in place, where the industry is going to take a greater role in self-monitoring, and we will continue our role in spot checks.

During the course of those inspections, which total just over 8,400, a number of instances of non-compliance have been identified. When a company reports to us an instance of non-compliance, we go out and visit that site and confirm it to be in non-compliance, but we also direct our attention toward areas that we consider to be high-risk, and that was again based on direction provided to us by the Provincial Auditor in the 2000 report, to take a risk-based approach to compliance, and we've done that. So we don't just randomly survey and monitor; instead, we direct our efforts to those areas where we believe there's most likely to be a problem, and if there is a problem, it's most likely to have significant environmental consequences.

In the year in question, 2000-01, there were a number of penalties, charges, stop-work orders, repair orders, compliance orders and warnings undertaken. In fact, those totalled 159 different remedies and enforcement actions, with fines of nearly \$300,000 being assessed.

If I glance across the level of non-compliance—if I can use that term—during that three-year period, there really hasn't been a significant change in the absolute number of instances reported, and that's a good sign. That tells us that despite an increasing overall effort in monitoring, we're still seeing no increase in the number of non-compliance reports.

I hope that gives you some sense of the effort that's undertaken out there. We take this very seriously. Again, we're committed to reviewing this particular piece of our work. We're putting in systems to automate the collection of this information so that we can more quickly analyze it and report to the public on it.

**Mr Parsons:** Your ministry's budget is what, this year, compared to last?

**Mr Thornton:** Compared to last, it's probably dropped—sorry, I can only speak to the forest program budget.

**Mr Parsons:** Yes.

**Mr Thornton:** The forest program budget is down slightly from last year, and we would have been near \$60 million last year. We're probably around \$59 million this year, if memory serves me correctly.



**Mr Parsons:** How can you be doing more with less, assuming your salary line is up this year over last year just because of negotiated agreements? How do you do more with less?

**Mr Thornton:** We don't necessarily do more with less; we do differently with less. We work hard on developing partnerships, in this instance with the forest industry, to undertake some of that work. In the past you've seen where we've gotten out of work altogether. Our nurseries that were once operated by tree nurseries that were once operated by the crown have been privatized. They continue to operate in a private scenario and sell those seedlings to forest companies to plant.

That's the business we're in: working with the finances we have in as efficient and effective a manner as we can.

**The Chair:** OK, that's the 20 minutes. There's been a suggestion made that we continue during the lunch hour; or, if there is a number of other rounds to go, then basically we will adjourn until 1 o'clock and start again. It's entirely up to your wishes.

**Mr Bruce Crozier (Essex):** Certainly everybody should get the opportunity, but I have just one question, to kind of give you an idea. I think Mr Parsons has said he's done, so we essentially have one more question.

**The Chair:** What about you, Mr Bisson?

**Mr Bisson:** I've still got quite a bit more.

**The Chair:** Is it your wish collectively to continue or would you like to adjourn till 1 o'clock?

**Mr Bisson:** I've got at least a couple of rounds because I've got a number of different things around sample cruising, some stuff on stumpage in regard to compliances, a whole bunch of stuff. I don't want to delude people that if we stay at lunch, we're gone at 1, because I've got a bunch of questions.

**The Chair:** All right. We'll recess until 1 o'clock and start again, at that point in time, with Mr Bisson.

*The committee recessed from 1158 to 1302.*

**The Chair:** I'd like to call the meeting back to order. We'll commence with the next round of questioning, and it's up to Mr Bisson of the NDP. Go ahead, sir.

**Mr Bisson:** My question is for Mr Thornton. Again, I want to stay in the line of questioning I had prior to breaking for lunch. Just to recap, we had been talking earlier this morning about the problem of people getting releases of trees off crown land. The policy in Ontario has been for years that if trees exist on what used to be called vet lots or crown land that happened to be patented lots, you would apply for a release of the pine on it, and at the end of the day the pine would then be released to you. In the past, you used to walk into the MNR office and get the release for that wood fairly quickly.

We talked this morning about how, I think inadvertently on the part of the government—I don't think they did this purposely to hurt anybody; it was just the result of not thinking it through when they did the Red Tape Commission bills. We're now in a position where we want to release all the trees off those lots and, because there's no policy to do that properly, applications to

release trees are caught up. As I explained, companies I've been dealing with are waiting up to about a year and a half. I just wanted to be clear for the record, because I know that some of my friends are watching—I'll say "hi" to Oscar and Bruce and a whole bunch of others I talk to—that you'll endeavour to talk to the ministry people in Timmins in order to try to find a resolution to this so we can get those releases done. I'd just like you to comment on that a little bit, because you've had a chance to talk to people over lunch.

**Mr Thornton:** I have had a chance to talk to some people over lunch and get a little bit more information on this. I should start by saying that it's not in every circumstance where a person comes to the Ministry of Natural Resources and asks for a release that a release will be granted. There are still some instances where there are sufficient concentrations of crown timber on private lands that MNR would try to manage that with some overall benefit to the province in the contribution that timber may have to provincial wood supplies. However, there are many instances, as you point out, where a person does come to MNR, has an isolated parcel of land, it's not part of any comprehensive management structure, and we would work toward having that crown timber released.

Here's where you need to look at the specifics as to the conditions of title of each property. In some instances, the crown has the right to practise forestry; in others, we don't. So one question that gets raised first is, what are the intentions of that person seeking the release with respect to regenerating the site? Do they intend to renew it, or are they simply interested in harvesting the timber and walking away? If they are interested in renewing it, we can enter into what's called a renewal agreement. In those instances where the landowner wishes to undertake renewal following the harvest, we can waive payment of the renewal charges. That's one situation.

However, where no effort is to be made by the landowner to regenerate the site, we say, "You should still pay that renewal charge." The reason we say that is because in not paying it—these are substantial parts of the overall charges that are to be paid—we effectively discount that crown timber and we now place an unfair balance between the price of crown timber on private lands and crown timber on crown lands. That's part of the consideration that plays into this whole mix.

You also mentioned to me, Mr Bisson, the question of sampling intensity with respect to operational cruises and so on. This is the means by which the wood that belongs to the crown on those private lands is measured. There is a process in place to do that. You asked me why the intensity of that sampling appeared to be higher on these private lands where crown timber is found versus crown lands where crown timber is found. The reason it's slightly higher is because we're not sampling for all tree species; we're only sampling for those that belong to the crown. In many instances it requires a higher sampling intensity just to ensure that the lines you run to sample



these trees actually encounter a tree species you're hoping to measure.

To give you some perspective, the percentage can be as high as 5% sampling in the situation I've described with respect to determining the volume of crown trees in that whole array of different species of trees that may exist on the site. Where you're doing a normal cruise and simply cruising for the volume of all trees on a site, the intensity can be lower. We again look at that on a case-by-case basis. If the landowner feels that an intensity of less than 5% is warranted, that can be accounted for in dialogue with MNR, with our regional office that administers the timber scaling and billing program.

**Mr Bisson:** OK. I'm going to deal with that after. I want to stay on the first item we talked about, which is the release of timber.

If I understood what you're saying, it would be easier to release timber off private land if the contractor or the owner of the wood demonstrates that they're going to do some reforestation. Is that what you were basically saying?

**Mr Thornton:** Not necessarily. The question of reforestation becomes moot once a release is granted. In other words, if the landowner says, "I want ownership of those pine trees in my spruce-pine forest that's on my land," once we give that release, we've really lost any recourse for conditions on how that timber is harvested, on whether the site is regenerated or what have you. In fact, this is the most common example we have. We're finding, for example, that once we grant those releases, we no longer own that timber, and quite often it's being shipped out of province.

**Mr Bisson:** Which is a whole other issue.

**Mr Thornton:** Which is a whole other issue. At the point of the release, it effectively becomes private timber, over which we have no jurisdiction.

**Mr Bisson:** Let me deal with this one piece at a time. The first piece I want to deal with is the problem the contractors are having trying to get the releases. As you explained it this morning, there's a review process going on on how to release all the trees. We described this morning what the problems were, and I asked you the question, can we, at the very least, get the trees released for those contractors who have application now by way of the old policy? Is that possible? Have you had a chance to talk to people?

**Mr Thornton:** No, I haven't, not on that particular piece of the business. What I have agreed to do, and you and I had this conversation outside the committee hearings, is arrange for a meeting where we bring in our regional and district staff and try to give you a more comprehensive sense of what the issues are and where some of the impediments are.

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**Mr Bisson:** OK. So what will happen is that your office will contact me and we'll set up a date in the next couple of weeks?

**Mr Thornton:** Yes.

**Mr Bisson:** And what we'll do is try to deal with the old releases that are currently before the ministry and see what we can come to on that?

**Mr Thornton:** Yes. Because of the very complex nature of this, I think you deserve to hear this from those who are the practitioners and the experts. I'm giving you a very high-level view of this.

**Mr Bisson:** I guess my only problem—and I don't want to spend more time on this than I need to—is that the ministry has always had the practice of releasing those trees. Like I say, I remember that 12 years ago, on being first elected, people would come to my office who were having problems with the ministry for whatever reason. You would walk over there, the ministry would take a look at the application and they'd approve it on the spot. That was 12 years ago. We've now moved to where people are waiting a year and a half to have something done that used to take a day. So the Red Tape Commission, as far as the red tape act is concerned, hasn't made things simple; it's actually made it worse. I'm trying to get that resolved. But we'll deal with that on a separate issue.

Let's get into the policy of what you were talking about. Is it the intention of the ministry over the longer term to have a policy that basically has a differential stumpage fee for those who cut wood on private land and demonstrate they're going to do reforestation?

**Mr Thornton:** That's right, because in essence if you're agreeing to do reforestation you're trying to—

**Mr Bisson:** Then there should be an adjustment on the stumpage, right?

**Mr Thornton:** That's right. Obviously you will incur the costs to regenerate that area out of your own pocket, and in that sense my understanding is that we don't charge again for the renewal fee.

**Mr Bisson:** Because there are, and you're right, some private landowners who cut the trees and run, and there are others who basically buy the land, cut the trees and reforest because it's an investment. There are a lot of private contractors who do that and hold quite a bit of land to be able to cut the trees today, replant them and, 50 or 60 years from now, go back and cut that all over. So you're basically agreeing with the position I take, which is that we should have a differential.

**Mr Thornton:** We should have a differential where there's a demonstrated commitment to regenerate that land.

**Mr Bisson:** The problem we have now, as I understand it, is that the stumpage is divided into three or four parts. You've got your stumpage fee, which is about \$3.50—whatever the heck it is—per cubic metre. Then you've got your forestry futures fund, I think it is, for blow-downs, infestations of budworm; you pay about 50 cents per cubic metre so the crown can go back and fix that. Then you've got the renewal charge, and the renewal charge is the account that is set up with the SFL holders. They go out and do their forest management plan, cut the trees and then replant. You do the audit at the end, and say, "You have met your plan." They're able

to draw down on the renewal charge fund in order to pay back some of the work they've done. That is a fair process, and I think most people agree it works fairly well.

The problem for the private operators is that in some cases—for example, in the case of Timmins Forest Products—they pay the full stumpage and then they go out and do the renewal, but they're paying twice. They pay for the cost of doing it and they pay the crown the renewal charge.

I guess my question is—and I think you've already answered the question but I just want to make sure I'm clear: you're trying to set up a regime that basically says that in the case of companies like Timmins Forest Products, eventually what would happen is that they would be able to participate like an SFL holder to draw down on the renewal fund.

**Mr Thornton:** I can't say for certain if they would be able to draw down on that renewal fund—

**Mr Bisson:** If I was minister, the answer would be yes.

**Mr Thornton:** I think the other means of addressing the issue is to ensure he doesn't pay twice.

**Mr Bisson:** That's the other way; you could eliminate. But from a policy perspective, as a New Democrat, I would say we're much better to encourage good forest management practices, and I think the way you do that is charge them the renewal charge and say, "If you do your job well, you can do like the big guys and draw down on the fund." At least that way you're encouraging people to go out and do proper forest management plans and think through what they're going to do from a sustainable point of view. Philosophically, the problem I have with just eliminating the renewal charge is that it encourages those people who want to, to cut trees and leave the woodlot bare. I don't think that serves any of us. So that's good news. I'm glad to hear that you're moving in that direction.

How much time do I have, Chair?

**The Chair:** You've got about 10 minutes.

**Mr Bisson:** OK, I'll have enough time for this other section.

On the sample cruise, as I understand it, it used to be that the ministry, back in the days when you had staff—do you remember those heady days? There were people working in your offices and you used to do all kinds of wonderful things, and you then got slammed by these guys with 50% cutbacks on staff. You can't comment because you're professional bureaucrats, and I know you'd never say anything that is in any way partisan, but I bemoan the fact that they actually cut the ministry back as much as they did. Quite frankly, I think the ministry has got to be in the bush, watching what's going on. As this report indicates—and we're going to get to that part a little bit later—where the ministry actually goes out and does inspections, it's not always that the self-regulated people are doing as well as they say they are. But we'll talk about that later.

As I understand it, in the past the ministry did sample cruises as one of its activities. It was not the responsibility of the person who cut the trees to determine, by way of a sample cruise over the forest, how many trees were there in order to apply stumpage. It used to be done by the ministry. Part of what has happened now, with all these changes, is that the forest company is responsible for doing that sample cruise.

We find ourselves in a bit of a funny position. We've got the ministry, because of work they've already done, having forest resource inventories on record to determine how many trees on a particular woodlot might be up to be cut. If you're an SFL holder, we say, "We'll hold you to a 2% sample cruise." If you look at the forest, you're telling the forestry company, "Here's 2%. What we require from you is to basically do a sample cruise of 2% of the forest that you're going to go in and cut, to determine how much pine or whatever is there so that we can apply our stumpage fee." But in the case of private people like Michaud logging, Timmins Forest Products, and the list goes on, a higher level is required. The answer you gave me for the reason you do that is because you may be releasing only one type of tree.

Well, I'm having a bit of problem getting to where you went. First of all, the message I'm picking up from what you're saying is that you don't trust your own records, because they may not be current, and that's why you need the sample done. But why would we treat those two people differently? It's an additional cost to the independent, and they're already having a tough enough time as it is. Why would we require something more onerous of the independent than we would, let's say, of the Tembecs or the Abitibis of this world? Can we change that?

**Mr Thornton:** This is going to get technical, so bear with me.

**Mr Bisson:** OK, I'm hanging on to my desk here.

**Mr Thornton:** You're describing two entirely different systems at play here. When I spoke to you about sample cruises, that was for the purposes of determining the volume of crown timber on private lands. Once that volume is determined, you multiply it by the dollars per cubic metre, and that determines the amount of money that must be paid by the landowner for that release. So there you have a situation where it's that sample cruising information that is the basis for placing a value on those trees before they are harvested. This is the important part: before they are harvested.

In the other example, where we were talking about operations on crown land, this operational cruising is done simply to get an estimate of the volume that is there on the site before it is harvested. No crown charges are billed based on that estimate of volume. Instead, crown charges are billed once that wood is harvested. In most cases today it goes across a weigh scale and is actually measured there. In some instances it's still stick-scaled in the bush. It's a very different system. So on any unit where you harvest crown timber on crown lands, the



basis of payment for stumpage is the actual volume of wood that's measured once it has been harvested.

**Mr Bisson:** All right. That makes it even more interesting, because I know where I'm going now.

The question of the SFL holder—for people watching, the sustainable forest licence holder, the big company—they still have to do a 2% cruise, even though they're charged stumpage based on what they drag across the weigh scale.

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**Mr Thornton:** We don't prescribe any intensity for their cruising; that's for their own purposes. What we place the emphasis on is how much wood is actually scaled, either weighed or stick-scaled, and that's our basis for charging crown dues.

**Mr Bisson:** What you're telling me is that the 2% the forestry companies do is actually not necessary, according to their licence. That's what you're basically telling me.

**Mr Thornton:** That's right. They may do that for their own interests to have a sense of what the volume is.

**Mr Bisson:** I feel a policy coming on here. I'm developing a policy with you. Work with me.

So in the case of the independent landowner who is cutting crown wood on private land, you're telling me that we require a 2% to 5% sample cruise in order to determine how much stumpage we charge, and you pay that ahead of time.

**Mr Thornton:** If you want a release, yes.

**Mr Bisson:** That's what I'm saying. We're talking the same language.

**Mr Thornton:** If you don't want a release—

**Mr Bisson:** What good would that be?

**Mr Thornton:** Many landowners are quite happy to harvest the timber on their private lands and pay the crown for those tree species that are the crown's. Let's say you don't want a release, you don't ever want to own those trees forever, so to speak, so if more pine come back you don't care if the crown continues to own them. Then all you would do is allow that area to be harvested, have it scaled and then you would report to the crown, "Here's the volume of wood that is yours and I will pay you the stumpage for that."

**Mr Bisson:** You wouldn't do the sample cruise?

**Mr Thornton:** No, you wouldn't do a sample cruise in that instance because—

**Mr Bisson:** There's a nuance that I'm missing here. There's something I'm missing.

**Mr Thornton:** It's the difference between wanting a release, which means, once you have that release, you have it forever. In other words—

**Mr Bisson:** You're telling me that if I'm Gilles Bisson Logging and I make my business from going out and cutting crown timber on private lots, I don't necessarily have to get a release to cut the trees? Is that what you're saying?

**Mr Thornton:** You don't necessarily have to have a release, no.

**Mr Bisson:** That's news to me. I didn't know you could do that.

**Mr Thornton:** I believe, based on my understanding of this—and remember, this is very complicated stuff that I'm not the expert on.

**Mr Bisson:** But the difference being, if I'm the landowner and I cut the trees and I don't get the release, as the trees grow back, they're still yours.

**Mr Thornton:** That's right.

**Mr Bisson:** And the difference in that case is that I pay stumpage. How do you make sure that the person who cuts the trees actually goes and weighs it somewhere so you can get your stumpage?

**Mr Thornton:** That's a very good question. That's one of the enforcement issues that we have had where, if there's a small amount of pine trees in among different species of trees and then the area is harvested, it's difficult for us to track that. This brings us to one of our incentives to make it a release, so we never have to continually—

**Mr Bisson:** So I may have the right to cut the trees and not ask for a release but you're not going to give me a permit to do it?

**Mr Thornton:** There could be situations like that. There could be situations where we say, "Look, 80% of timber on your land is crown timber." The fact that you want to harvest 20% of it—we may not agree.

**Mr Bisson:** Let's work together here in developing a policy. I've got a good policy for you. If you're saying that you want to increase the sample cruise to about 5% for the private landowners—it's an additional cost that they happen to incur in order to get that sampling done at 5%. Why doesn't the ministry take the position of saying, "OK, we'll allow a 2% sample cruise," and determine from that—you could put a multiplier in it—what the actual stumpage is, because you want that money up front. But then have them drag it over a scale and adjust the stumpage accordingly. Why don't you do that?

**Mr Thornton:** We could. That would cost the landowner more.

**Mr Bisson:** Why would it?

**Mr Thornton:** Because he would not only estimate the volume up front, but he would then be obliged to separate those species for scaling purposes and report back on the actual later.

**The Chair:** We'll have to leave it at that for now, Mr Bisson. You can get back to it later on. We'll turn over to the government caucus.

**Mr John Hastings (Etobicoke North):** Thank you, gentlemen, for coming in today. I've always found MNR a very interesting ministry to learn from even though I'm a city slicker, so to speak, although I wasn't brought up in Toronto.

**Mr Bisson:** You have trees in your riding.

**Mr Hastings:** Actually, we do have some trees, and the city of Toronto focuses on having a tree advocate, yet he doesn't seem to get out beyond his own little borders of Trinity Niagara. You know who I'm talking about, although I'm sure he's trying to do a good job.

I'd like to echo Mr McDonald's sentiments regarding the four MNR employees who were recently killed in the helicopter crash near Wawa, I think it was. It's very difficult for them, especially at this time of the year with the bad weather you get.

This morning Mr McDonald was talking about getting our story, or the ministry's story, out regarding the forestry industry and how it has changed particularly the management relationship from, say, 10 years ago to how it is today. One of the major changes seems to be the self-managed approach through these trusts that have been set up through the Crown Forest Sustainability Act etc, whereas MNR used to have a very direct, almost regulatory, approach to the industry. Is that how you could depict the broad change in the relationship?

**Mr Burke:** I think what we do today is basically set out the terms, the conditions, the guidelines, set the standards and then ensure that the industry abides by that. We then circle around and say, "Now we need to audit that to make sure everybody is operating honestly within that set of rules." That's essentially the change. Beforehand, we basically went out there and managed it and dealt with compliance on what we saw and so on.

**Mr Hastings:** You were more—

**Mr Burke:** —an oversight, but directly involved in the oversight.

**Mr Hastings:** More heavy-handed, perhaps. That's maybe not the right word. I'm talking about way back.

**Mr Burke:** Perhaps some would describe it that way.

**Mr Hastings:** Right. You were talking about how only one third of 1% of the forests in the province of Ontario are harvested each year in this new relationship, through the trust. You were also mentioning, Mr Willick, that it's hard to get the story about the successes out. So what I would like to know is, what are some of the successes that you are having in the new relationship, and what opportunities do you think there are for the ministry to get the story out? For example, if you're living in the city of Toronto, you get lots of stories from the environmental side about how our forests are ravaged and not well managed etc. Wouldn't the MNR display at the Sportsmen's Show be one of the first launch pads, so to speak, to get your story out, because you have mostly Toronto people, lots from the GTA, and some coming from some distance? You have other shows in Ontario; I assume in Ottawa and London. Is that not one of the ways to get your story out about the changing nature of forestry practices in Ontario?

**Mr Burke:** The short answer is yes, those are ways we do it, and indeed we have people attending those kinds of events to basically outline what we do on the land base, the kinds of land uses and practices we have. I'm going to ask Mr Willick, who is relatively close to that issue, to perhaps expand on that.

**Mr Willick:** Thank you, John. We do have good-news stories, as I said earlier. I think there are two obvious ways to get the message out: one way is for a third party to judge how you're doing and spread the word; the other

way would be for us to spread the word of how we're doing. We take both those routes.

First of all, the third party recognition has been very successful. By "third party recognition," I mean our relationship with the certifying bodies that come in and look at how we're doing our business in Ontario, judging that we are practising sustainable forest management in the province and announcing that to world. That's really important. The Ontario Forest Accord advisory board, where the government, the industry and the environmental community work together to further force policy development, has been out spreading the word across the province; our relationship with the Ontario Forestry Association in developing Focus on Forests, an educational program that can be used by teachers in schools; independent forest audits and the tabling of those in the House. Those are all other people looking at what we're doing and passing the good word on for us.

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What we've been doing specifically in-house: the annual reports we put out, publications we put out each year telling the story and the trends we're seeing in the province. The State of the Forest Report was put out and talks about how things have been over the last five years. Our Web site, Ontario's Forests, is available to people. We have a poster that Bill has that shows how the forest is used, which maybe we could give to some of the members, if they might be interested. We deal with meetings and conferences where we go and tell our story. We travel with some of our sister ministries and market Ontario into the States, by and large, and talk about the good forest management news in the province. The World Forestry Congress is coming up in Quebec City this September. We will be there, telling our story to that audience in a big way.

**Mr Hastings:** How do you measure success? Some people would say you can measure it by stumpage fees, the productivity, the number of people holding jobs in the industry in northern Ontario and across the province. Can you also measure success through disease prevention, through diversity, rather than a monoculture approach to forestry?

**Mr Willick:** You're absolutely right. I would say that our success—we know we're growing healthy forests in this province; we can demonstrate that. We show the balance we're taking between the social needs of the province, the environmental needs and the economic needs. We have a vibrant forest industry in this province. We have many other industries, such as the remote tourism business, that depend on a healthy forest. We have healthy communities in the north that are based on a healthy forest industry. We have the tracking of the renewal records that show our success is improving in renewing the forest.

**Mr Hastings:** You were before this committee two years ago, I believe.

**Mr Willick:** Yes.

**Mr Hastings:** At that time, Ms Martel voiced considerable concern about monoculture practice, that



some of the industry companies that may have been diverse, after you had forested a particular species, would then replant with the same type of species, depending upon what the market demand is—when you look at the housing market in southern Ontario as well as other parts of the province. Has that concern been dealt with to some extent? I can recall that she went on for some time. It's fairly obvious. If you're a company and you had success selling a particular species in the market because there is a demand for that species—spruce—then you'd continue to do so. So you plant your whole acreage—1,000 acres, say—with the same species. So you are more vulnerable to these predators that we're seeing now in the media.

**Mr Thornton:** It's a question we're often asked, and it deals with this public perception that monocultures are being perpetuated out there in the landscape. I can tell you that's not the case. The fundamental principle that underlies how you regenerate the forest, how you regenerate areas that are harvested, is to put back there what Mother Nature had in the first place. So if you have a site that is, for example, comprised of Jack pine that grew there following a fire 50 or 60 years ago, the most logical species to put back there is Jack pine. The reason for that is that Jack pine have adapted to that site over hundreds of years. These are specific conditions where they grow best and other species don't grow well.

The notion of trying to somehow convert the land to grow a species that hasn't naturally adapted to that site isn't one that takes you very far. There have been some attempts in some instances, particularly where you have mixed-wood sites, so you have a hodgepodge of different species, to favour one over another, and that's possible. But by and large, you're limited to the site characteristics when you choose a prescription to regenerate it, and that often forces you to put back there what Mother Nature would have had.

I find it ironic that people would look at a plantation that has been—and I'll continue to use this example—predominantly Jack pine and they say, "Look at this, it's all one species; that can't be good," and yet you say, "Well, here it was two years ago predominantly Jack pine when we harvested it." We're putting back that same species on that site, so if it was 90% Jack pine before, it's reasonable that we would continue to have a high proportion of Jack pine in the future. Mother Nature gives us a whole lot of so-called monocultures anyway. Those are just phenomena of nature.

**Mr Hastings:** That's not the way most of the public perceive it, is it, sir?

**Mr Thornton:** I understand that.

**Mr Hastings:** They see these photos and they're saying, "That company A must be practising bad forestry management." It's only for the short term, because they've got a demand for that type of wood in the marketplace.

**Mr Thornton:** Yes, and increasingly what we're finding is that where there are a number of species coming back on a site, there are markets for those as well. If you were to look at the Ontario forest industry of

two or three decades ago, there were some species like poplar that had very little market. Poplar now is very much in demand. It's used in oriented strand board; the sheathing, for example, that you find in houses being built today. So increasingly, where there was a reason perhaps in the past to favour only one or two species, there is less of a reason today, because many of those species can find a use in forest products.

**Mr Hastings:** Mr Burke, I was interested in your report here about the forestry futures trust committee. Are some of its responsibilities to deal with the predators that we're seeing coming into North America? Correct me if I'm wrong, but there was some Chinese insect that can get into the elms of Ontario—maybe not necessarily our forests in northern Ontario. I may have the wrong species of predator here.

**Mr Burke:** I think you're on the right track. I think what you're referring to is the emerald ash borer. I'm going to have Mr Thornton speak to that particular issue.

**Mr Hastings:** Is it a responsibility of this committee or this group to anticipate these sorts of things?

**Mr Thornton:** I'll give you some background. Your question focuses on pests, insect pests in particular, in Ontario and what's being done about them. You are correct; there are a couple of notable insects that have come into Ontario from other countries—China in particular. The two that have gathered the most attention recently are the Asian long-horned beetle and the emerald ash borer. These are the kinds of publications that we work with the federal government in putting out, to alert landowners and others around the perils brought by these insects.

I'm describing here what we refer to as exotics or introduced pests. In other words, these insects are not native to Ontario. Because they have been introduced just recently, that authority, in dealing with those introductions, rests with the federal government, specifically the Canadian Food Inspection Agency. They take the lead in dealing with introduced pests that have not been native to Ontario. We of course work closely with them. For example, in the case of the emerald ash borer, which has recently been discovered in the Windsor area, has come across the border from Detroit, we are working extensively with the city, with the Canadian Forest Service and the Canadian Food Inspection Agency, as well as municipal affairs and others, to see what can be done to contain that infestation. But as I say, at this point, because it's an introduced pest, that lead authority rests with the federal government.

**Mr Hastings:** It's going to be very difficult to contain that ash borer, I believe.

**Mr Thornton:** Yes. Plans are underway that will unfortunately mean the removal of a number of ash trees in Windsor. This particular insect from China is very aggressive in destroying ash trees and can probably do that in one or two years. There's evidence of the infestation in many parts of Windsor. There are plans in place to remove infected trees and to try to contain the spread of that insect beyond Windsor.

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**Mr Hastings:** Does this mean we should have some kind of thing in place to deal with anticipated predatory insects that destroy the well-being of an industry, from an international viewpoint? If this ash borer gets beyond Chatham, gets across the province, it could destroy that particular—they can also mutate, go to other forms. Can we get compensation through the federal government by suing in the World Court, or is that just fancy talk and it never really could result in an amount of money to recover the costs of your lost employment etc?

**Mr Thornton:** We haven't contemplated any legal action. Our model right now is one of co-operation with the federal and provincial agencies that have an interest here. We do have an understanding with the Canadian Food Inspection Agency where our entomologists work together to try to understand the science of how these insects operate, because that's often the key to understanding how to control them. There are also limits placed on the vectors, the means by which these insects enter the province. If you look at the case of the emerald ash borer, you'll discover that it came in on wooden packing pallets and related wooden items from China that were unloaded in the Detroit area. As a result, those insects survived in the wood and have spread into the forested areas of Detroit, and some have now come across the border to Ontario.

**Mr Hastings:** Turning to the question of the small woods operator: when I was PA at MTO a few years ago and we were visiting northwestern Ontario, some of the woods operators, the one- or two-person operations, said to me that in league with the larger companies that rely on the small woods operators to go further in, they didn't have much of a chance if the weather went very mild. MTO's regional managers could close the roads off that had wood already cut; they were going to be bringing it out by this time of year or early March, and they just closed them down because they were concerned about the ripple effect impacts on the highways in the northwest.

To your knowledge, has anything changed in that regard? Are you even aware of this issue, of this concern from the small woods operators? It impacts some of the mills up there because they no longer can get the wood that was already designated, measured, scaled out, perhaps even cut, as it turns mild and then it doesn't go back cold. The blanket authority—that ends it for the cutting season.

**Mr Thornton:** We're certainly aware of the problem. Weather is a dominant factor in all forestry operations, whether it's hot summers and fire seasons or cold winters and heavy snow. Once those roads start to go soft, you're right: the Ministry of Transportation does have a responsibility to ensure that loads are lightened so as not to damage the public highways for other uses. That's why, increasingly, we're seeing greater efforts in moving wood when the roads are frozen. We're seeing this now, at exactly this point in time. If you were to look at our records of when most of the wood in this province is

transported, it is in these very months of January, February and March, for that reason.

What that brings about is often a glut in terms of the need for truckers for those three or four months that I've described. That in itself has brought problems, because often the supply of trucks isn't there to move the volume of wood quickly enough.

**Mr Hastings:** Do you think we could find a different management model to deal with that concern, like they have on occupational health and safety, which is more of a shared arrangement in terms of the decision-making on that? That was their suggestion, their solution to this situation.

**Mr Willick:** If I may, I think the secret is first of all local dialogue to make sure people understand the implications. But even before that is planning ahead of time, and that's where we could really help in making sure the allocations are made in a timely fashion, so that people can get in, do the logging and do all the harvesting so they can get the hauling done before the roads go soft.

**The Chair:** Mr Crozier.

**Mr Crozier:** The discussion on the emerald ash borer certainly affects the riding I'm privileged to represent, that being the area of Essex county. There's one lot there that has upwards of 80,000 trees in it, most of which may be devastated by this ash borer. So we appreciate your working with the federal government and the local authorities on this issue.

In the same vein, I have to mention that there's a staff member of yours down our way, Alec Denys, who is most helpful when it comes to some issues on Pelee Island, our little gem out in the middle of Lake Erie that is not without its issues that MNR is involved in. I want to tell you that Alec is one of your staff who is most helpful and available. Any time I can put in a plug for him, I will.

Now to these issues. Often there's comment by a ministry at the end of the day about how they feel about a visit from the Provincial Auditor. How do you feel, Deputy Minister Burke?

**Mr Bisson:** I feel just great.

**Mr Burke:** I second that motion. We have found the Provincial Auditor extremely helpful, and believe me, we take advantage of every opportunity we have to improve what we do and have a third party look at what we do in a meaningful, supportive way. I read very early on the things we've been able to accomplish, I think in part due to the work that was done by the Provincial Auditor.

**Mr Crozier:** I asked that question in that way so as not to put any words in your mouth. Is your feeling the same as far as the standing committee on public accounts and its comments and recommendations through reports are concerned?

**Mr Burke:** I feel pretty well the same way.

**Mr Crozier:** OK. That's the set-up. I do, in all seriousness, want to go this letter of February 14 from you, Assistant Deputy Willick, received literally—at least the "received" stamp on here is two days before this meeting. What I want to get some sense of is that this is



in reply to a matter that should have been submitted to the standing committee on public accounts on April 30, almost a year ago. Why does it take that long, and in this instance, why did it take that long to reply?

**Mr Willick:** It slipped through the cracks.

**Mr Crozier:** Did it?

**Mr Willick:** Yes.

**Mr Crozier:** OK. That's fair. Good. I'll take that. It happens.

**Mr Willick:** I'm embarrassed by it, but—

**Mr Crozier:** No need to go any further. I was just genuinely interested whether there was some process reason or whatever, and you've answered the question. I was going to use the example that if we took that long to reply to our constituents, you know what we'd hear. Sometimes it slips through the cracks; you're absolutely right.

*Interjection.*

**Mr Crozier:** I always tell my constituents that you can't expect an answer from a minister for at least eight weeks, so that's not bad.

I want to go to page 401 of the auditor's report. Reference is made to forestry trusts. The auditor says: "The ministry informed us that staff now track revenue and expenditures related to the forest renewal trust. The monthly account statements are reviewed and compared to the minimum balances. Quarterly summaries are provided to district staff, and when accounts contain less than the minimum balance, companies are contacted to correct the deficiency." Could you give me the number of companies and perhaps how many companies out of that number might be deficient?

1350

**Mr Thornton:** I can speak to that. Right now, if you were to look at a map of Ontario and see how we manage by individual management unit, you'd see about 53 individual management units where commercial forestry operations take place, and each of those 53 is required to maintain a status in its account. Now, that number changes over time as management units are amalgamated and so on, but in rough terms it's just slightly over 50.

We have experienced the problem, as noted by the auditor, where some of those companies have not met a minimum balance obligation in their accounts at a certain point of time, specifically the end of March of each year. To give you some perspective, it's in the order of anywhere from two to probably six, perhaps slightly higher than that, where this happens.

I think we need to go behind the scenes and ask ourselves why this happens. Remember how this trust works. It's basically a trust that receives money that's paid by a timber licensee when they harvest wood. Money is placed into the trust, and then when that site is regenerated, monies can be paid back to the company for their cost of regeneration.

So you have two things happening. You have monies going in, based on timber that's harvested, and monies coming out, based on the renewal work. When those get out of phase, a minimum balance may not be met. One

example we've encountered is an early spring. With the spring thaw you can't truck the wood to your mill. It doesn't get weighed, and therefore you don't pay stumpage. The revenue you were relying on in February and March doesn't materialize, and you fall short of your minimum balance. In those circumstances, we say, "We understand there are operational conditions that have played a factor here. Write us a cheque," and they do that. They top it up with a cheque, and then as that wood comes in later in the year, we process that as a credit.

**Mr Crozier:** So you're saying roughly 10% to 15% maybe. I suppose that is a rollover figure. It isn't always the same company.

**Mr Thornton:** It isn't always the same companies.

**Mr Crozier:** My next question was, what happens? You've said this is brought to their attention, and without too much difficulty it's met.

**Mr Thornton:** It's rectified, yes.

**Mr Crozier:** Are these trust accounts very large? Are we talking about tens of thousands or hundreds of thousands of dollars in any one trust?

**Mr Thornton:** Millions.

**Mr Crozier:** Millions? So if they're deficient, it could be a significant amount that they're deficient.

**Mr Thornton:** Yes. In total across those 53 units I have described, in the forest renewal trust there is over \$150 million.

**The Chair:** There are about 10 minutes left. I'd like to ask some questions, so I'll ask Mr Crozier to take the chair.

**Mr Crozier:** We're going to play musical chairs here.

**Mr John Gerretsen (Kingston and the Islands):** I too appreciate your honesty with respect to the recent letter. I have some questions, though, about the chart that was provided with the letter. It talks about the number of licences that were actually in effect, as opposed to the number of mills that were operating. For example, in the chipping facilities, five out of the seven that were there had licences. Some of the percentages are high; some are low. What happens to facilities that do not have a licence? In many other areas, if you don't have a licence to practise, you can't do any of the work any more. Are these mills in effect shut down until they do get a proper licence?

**Mr Thornton:** No, they aren't shut down, and here is where I should give some background to the purpose of this mill licence. This is a situation where we know where all these mills are. There are 215 of them. But the renewal of their licence hasn't occurred in a timely fashion. There are a number of reasons for that. It could be that one company has bought another, the name on the licence has to change and we haven't got all the papers through in terms of who the legal entity is that's operating the mill. But more important, the purpose of having this licence, from MNR's perspective, isn't the permission to operate as much as it is the requirements we have to gather information from that licensee. For example, we're interested in knowing on an annual basis information on how many people that mill has employed,

how much capital they've invested in it, how much product they've produced in terms of paper or pulp or panel board or lumber, how much wood they've consumed. That's really the compelling rationale for having these licences. What really counts in terms of a mill's interaction with MNR isn't the mill licence; it's the timber licence because, as you know, most of the timber supplying these mills comes from crown land.

Just to repeat, I guess, the purpose of the mill licence is really one of knowing the facility is out there and having some means by which we can gather information related to that mill.

**Mr Gerretsen:** I'm glad you mentioned the timber licences, because that was my next question. A couple of years or so ago I had an opportunity to travel quite extensively in the north, to get on a couple of planes and to sort of survey the area. What really struck me was that whereas in some areas the timber has been cut extremely well, proper cleanups have occurred, it has been cut in sections etc, in other cases there was an awful lot of rubbish left behind and the sections that had recently been cut were an absolute mess. From talking to local individuals there, both in the industry and outside of the industry, this is a major concern to the people up north.

How can you allow that to happen? If a piece of property is leased or the timber rights are leased to an individual company, and let's say it's one of those companies that isn't involved in proper cleanup, what do you do the next time it comes to you for a licence? Do you in effect say, "No, you're not getting a licence to cut until you clean up the last property where you were involved before"? Why are some of these areas left in such total disarray? I assume that will not be cleaned up naturally for probably 50 to 100 years. What's the reason?

**Mr Thornton:** To answer your first question, what is done, if this is an example of timber harvesting on crown land where we have jurisdiction—we don't have jurisdiction for timber harvesting on private lands, and what you're describing appears to be a situation of what we would call wasteful practices, timber that is merchantable is being left on the site—then we can go in and through our compliance monitoring program identify the problem. We take corrective action, which could range from warnings to stop-work orders to administrative penalties and offences. As I've described, we do that on a regular basis. We certainly wouldn't wait to act on that until the next time the person came to us asking for another timber licence.

**Mr Gerretsen:** OK. Let me ask you this, then. In light of what has happened to your budget over the years and the number of people you employ in the inspection areas, do you have enough people to in effect see that the compliance with these various rules and regulations is being adhered to? The reason I am asking that is that from my recollection most of those individuals basically said there has been clear-cutting done or there has been waste left on crown property. Most of the land I went over was crown property, as far as they knew and as far

as I knew. Do you not have enough manpower or human resources available to you to properly monitor those situations?

**Mr Thornton:** You're talking to a public servant who would always like to have more resources. I guess you can expect what I would say here is that we do the best with the resources we have. You're correct that the resources assigned to the forest program have been reduced in recent years. However, we have also re-engineered the manner in which we undertake that work. When I look at our performance in this particular area, the area of compliance, I can honestly say that alarm bells don't ring off for me.

1400

If I were to be blessed with more staff and more dollars, I would think hard about the need to put more effort into this compliance monitoring that we're talking about. I think the role that the industry has accepted and the work we continue to do in the field in our monitoring efforts is admirable. I would be more apt to put additional resources in other areas related to planning—some of our science work and so on—but I think, given the transition, the new relationship that I've described has worked reasonably well.

**Mr Gerretsen:** Isn't that interesting, because I was going to ask you, as my final question, about planning. I'm a neophyte in this area, I know nothing about it, but I think it's a fascinating industry and it's another area where, from a tourist potential, quite frankly, we've got resources out there. To most people who come from smaller urban countries this is just something unbelievable, to see the vastness of the Ontario woodlands, particularly up north. I don't think we're doing enough to get involved in that, but that's another issue.

From talking with the auditor earlier, I get the impression that he feels the compliance monitoring is better and maybe the reporting is better than it has been, but the upfront planning really needs a lot more work. That's why I was just a little bit surprised when you talked earlier—and I believe it was the deputy, in his opening comments—about the five-year forest management plans etc. I'm wondering if you don't need to do more than that. I get the impression that you wait five years in this planning process to see if what you were looking for is really happening. Shouldn't the time framework in effect be shorter? In other words, the way I look at it, if you take the timber off the land, then we want to make darn sure that the timber comes back on the land by new growth and what have you.

There are really two questions here. You said that one third of 1% is being harvested annually. Are we getting a new forest, an addition of one third of 1% per year? In other words, are we keeping up with what we're in fact cutting down?

**Mr Thornton:** The answer is yes. As the deputy had indicated to you, when we go back and look at those sites to assess whether or not they've progressed as we had planned, in 86% of the time they've come back to meet the standards that were expected at that point in time.



If I could give you a very global perspective here—and it's dangerous doing this—if you were to look at the total forested area of Ontario, you would see that there have actually been slight increases province-wide. There are a lot of reasons for that: some abandoned agricultural land now being forested and so on. But there is no compelling evidence, based on all the reports we provide to the public, that would suggest there is land being harvested out there that is not coming back to regeneration. Sometimes it's not as fast as we'd like and it's not always the mix of species that we'd like, but it is certainly being regenerated.

**Mr Gerretsen:** Why do you wait five years to go into this qualitative analysis in your planning process?

**Mr Thornton:** Well, in terms of assessing the performance of an area that has been regenerated, you have to wait five to 10 years just in order to see how that plantation progresses. It takes that long for trees to get to a sufficient size where you can say with some certainty that this is now successfully renewed.

For example, the standards that Mr Willick talked about—when we assess a tree for free-to-grow status, which is this kind of measure of, “OK, it's free to grow from this point on,” it has to be at least a metre high, there have to be a certain number of trees per hectare and they have to be trees of the right species. It also has to be free to grow from competition. So it's fine to have a tree that's a metre high and it's the right species and there are lots of them, but if it's overgrown with raspberry bushes or alder or whatever the case may be, that's still not sufficient. Those are the kinds of standards we put in place when we make that determination of successfully regenerated, that 86% figure.

The other piece you asked about was the broader planning that we do every five years, and you are correct: there are forest management plans currently prepared on a five-year basis. These are very comprehensive plans. You can imagine for a million hectares, as the size of some of these units are, describing where roads will be built, where timber will be harvested, where trees will be planted over a five-year basis, identifying all the areas that have to be avoided because of values to be protected—water bodies, osprey nests, or whatever the case may be. It's very, very complex, calculating how much timber can be harvested on a sustainable basis so as not to over-harvest on that unit, so much so that it now takes 27 months to prepare that five-year plan.

Once your plan is in effect, each year you're also required to report on your accomplishments. Those reports are available to the public and often summarized provincially, in the form of the report that I showed you recently.

So it's almost a perpetual state of planning—that's my message here—because of the need to report, the need to review and the need to start the planning cycle again.

**Mr Burke:** If I could just add one comment to that: I know in your past you've been involved in local government, as I guess some of us around the table have been. There seems to be a love affair with five years. You may

recall that official plans have to be renewed every five years, rezoning or zoning plans have to be renewed every five years. Five years for some communities is a long time because not a lot happens. In other communities, it's happening very, very quickly. The important thing, though, is to track what changes are taking place and feed that back into your planning system. As Bill says, we're almost on a continuous rolling of planning and planning changes as we move along now.

**Mr Bisson:** I'll just go back to where we left off on the sample cruises, just to bring that part of it to an end. We were having a discussion around the size of the sample cruise that private contractors have to do in order to be able to determine how much stumpage they pay. I'd made the suggestion of, why don't we look at a different regime that basically allows a smaller sample cruise of 2% versus 5%, and then basically an adjustment based on the weigh scale?

I've gone back and talked to a couple of the contractors I'm dealing with, and they were saying to me that they're weighing anyway. They've got to pull the wood on the scale anyway because that's how you determine how much money you're going to give the lot owner, or in the case where you own the lot, to be able to do your own accounting. So is there a possibility that the ministry would be able to look at some way of reducing the size of the sample cruise, because it puts an additional financial burden on the contractor? There are some good contractors out there trying to do a good thing. There's a number of them that do reforestation as part of what they do. In the cases where you have contractors who have a proven track record, who do reforestation, would the ministry be prepared to take a look at the size of the sample cruise?

**Mr Thornton:** I think we can do that. I think we can look at it where we have some assurance that the wood is going to be scaled and we can then determine the actual volume and value of crown timber involved.

**Mr Bisson:** But in all cases, you have to pay the crown dues ahead, right?

**Mr Thornton:** For a release, that has been the practice, so what you're describing, I think, is some means of an initial estimate and then adjusted by an actual measure.

**Mr Bisson:** Exactly. That's one of the issues we'll bring back and have a chat with you about as we move forward with the other meeting we talked about. So that will be helpful.

Just before I get off that entirely, just to understand something, in the past, did you always require that all stumpage be paid ahead of time before you take the trees off, if you're a private contractor? Is that something relatively new?

**Mr Thornton:** Again, in the context of requesting a release, I believe that has been the practice, where the money has been paid up front for purposes of their release.

**Mr Bisson:** Because one contractor who used to be in business and had been out for about 10 or 15 years was looking at getting back in again, and that was one of the

things he brought to me. He said, "I never used to have to do that." He used to cut under the old DCLs, the district cutting licences. I'm not sure, but under the district cutting licence, did you have to pay the stumpage up front again?

**Mr Thornton:** No. A district cutting licence on crown land is a different thing altogether.

**Mr Bisson:** You can't get them any more.

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**Mr Thornton:** There you were harvesting crown timber on crown land and you paid based on the scaled volume of wood.

**Mr Bisson:** So you'd pay after.

**Mr Thornton:** That's right.

**Mr Bisson:** That's why he's seeing the difference. You used to be able to operate under a DCL that no longer exists. The only option for him would be to go and cut private wood. Therefore, the private wood policy has always been the same, which is prepay the stumpage.

**Mr Thornton:** I believe that may be the source of confusion, yes.

**Mr Bisson:** All right. That's good. That's helpful. Like I said, the larger the sample cruise you have, the higher the costs and, as you know, this is becoming a more and more difficult business when it comes to the final numbers.

The other thing is on the all-trees release, just to go back to that for a second. Actually, it's related to the sample cruise. What do you do in the case where it's an all-trees release? Do you treat it differently than if it's just pine?

**Mr Thornton:** I think that may be one of the situations where the person could argue that a smaller sampling intensity is appropriate.

**Mr Bisson:** On all trees.

**Mr Thornton:** On all trees, yes.

**Mr Bisson:** So if a person gets an all-trees release, then that would be easier to make happen.

**Mr Thornton:** I believe so. Certainly in terms of sampling intensity, I think that's where our scaling people would say, "We can go with a lower intensity."

**Mr Bisson:** And just so people understand what we're talking about: even though you don't get an all-trees release, it doesn't necessarily mean that you cut all the trees. It's the release by the ministry of the type of tree, just so we're clear on what we're talking about.

Just to finish that particular point, what you're saying to me is that the ministry is developing a new policy that in the future it will be an all-trees release; it will not just be conifer. If we do end up with that within the next number of months—as I understand, it will be a matter of months before that policy is in place—then that naturally says that the sample cruise will not have to be as large. That's what it tells me. Am I correct in my assumption?

**Mr Thornton:** I don't think we can make that sweeping a generalization.

**Mr Bisson:** I can.

**Mr Thornton:** Here's where I think we really need to bring in the experts to give you a better assessment of the situation.

**Mr Bisson:** All right. But what I'm hearing, which is good, is that there's some flexibility on that. That's what you're telling me.

**Mr Thornton:** And that we're prepared to look into it.

**Mr Bisson:** So you're basically saying that if it makes sense and there is a way to actually determine that the crown is collecting the dues it's owed at the end, then certainly there is an ability to look at the size of the sample cruise.

**Mr Thornton:** Yes.

**Mr Bisson:** Excellent. I like that. That's good stuff.

The next thing with regard to all of that is the issue of the stumpage itself, just so that there is a bit of a policy discussion at this point. We talked earlier about the stumpage fees. Stumpage fees, just so people know, are divided in different parts: there's the revenue part, which is the stumpage; then you have your futures fund or whatever you call it, which is a small portion—I think it's about 50 cents per cubic metre of wood—set aside to fix blowdowns; then you have the renewal fund. I heard you say, in looking at that, that what you're thinking about is, in case the ministry releases all trees off private lots, is it appropriate for the ministry to be charging the renewal charge? Can you explain what the logic is and where you think you're going with that, just so we're a little clearer?

**Mr Thornton:** Again, subject to further discussion with those more intimately involved than I, the issue here would be, if someone is arguing that they should not pay that renewal charge and, in doing so, of course, because we've released the timber, they have no obligation to renew, then are we in fact artificially discounting the value of that crown timber and now putting in place a two-tier pricing system, such that it becomes inordinately attractive now to cut the private land? That's the policy issue we have to consider here.

**Mr Bisson:** The policy, what I want to give you by way of discussion toward the development of that policy, and I'll just say it again: what I think we want to do as a Legislature, and what I think you want to do as a ministry as well, is to make sure we encourage sustainable activities in the forest. It's different if somebody has a private lot and they're trying to build a building; sure, cut the darn trees down. There are reasons to do that. But if somebody who is engaged in the activity of forestry as a business cuts trees on private land, in the end I would much rather see a policy developed that says, "We're going to charge you the renewal charge, as you would pay if you were a licensed holder like Tembec or Abitibi or Domtar or whatever, but we'll then allow you to do as the big companies do and draw down from the forest renewal charge, once you've proven to us that you've done your audit and you've actually met your targets in your forest management plan." Is that where you're likely going to end up? If it is, I think I can live with that.



**Mr Thornton:** I can't predict that we will. I think that's one of the suite of options we examine.

**Mr Bisson:** I can understand what you're saying from a policy perspective, that if you remove the renewal charge, you're going to have everybody stampeding to cut the trees on private land. I don't think any of us wants that.

Just so members can get a sense of how big this is: there are many places, for example, in Mr Ramsay's riding south of me and even up in my riding of Timmins-James Bay, and I would argue in most places in the north, where there are still fairly large tracts of private land. For example, in the northern part of the city—and you used to live in Timmins, if I remember correctly.

**Mr Thornton:** Yes.

**Mr Bisson:** In the northern part of the city of Timmins there's that whole area where vet lots were given, not only for the Boer War but for the First World War and Second World War. You've got huge tracts of land that go up on the Gordon Cosens Forest, almost. So you're talking probably—I don't know. That whole section is maybe 100 miles by 100 miles.

**Mr Thornton:** Yes, there are big, in some instances in fact townships, of privately owned land there.

**Mr Bisson:** So the policy perspective for me is that if you allowed the reduction of the stumpage altogether because we've released the trees, you'd be encouraging people to go out and just clear-cut that and do natural regeneration, and that's not the way we should do it. We should be encouraging good practices.

That brings me to the other point, which is related to the SFL holders, the sustainable forest development licence holders. We require them to develop a forest management plan, rightfully so. Mr Gerretsen talked about that a little while ago and asked some questions along that line. But it's not necessary that we require any kind of plan like that from a person who does their living out of extracting forest from private land. Has there been any kind of review by the ministry to take a look at either the ministry providing that function or requiring the operator to provide that function of a forestry plan when we're cutting on private land?

**Mr Thornton:** It's a good question. We do have a program in place. It's a voluntary program and it has already been touched on here in part with respect to the managed forest tax incentive program. There, if a landowner wishes to, they can participate in a program that sees a plan prepared for their property by a professional forester and, in doing so, once that plan is in place and it is acknowledged, they see a benefit by way of a reduction in their municipal taxes. There are issues with that which we've acknowledged, and so on. So that's the one incentive program we have out there and that's really about it. If you're a private landowner and you don't want to participate in that program, then we make available all the information we have on good stewardship and any sort of assistance in that area. But it's really the choice of the landowner how they want to manage their land.

**Mr Bisson:** Just to be clear, I don't think anybody on any side of the House would want to infringe a very strict discipline on somebody who owns a private lot and is trying to develop it and, in doing so, is cutting down the trees. I just want to make that clear; we don't want to infringe on that. But clearly there's a whole bunch of private land out there that is not up for development. It's out in the middle of the bush. It's basically forest. We need to find some way to manage that better. As I travel around northern Ontario—as you know, I'm a pilot and I fly over most of that area myself—I see there are some activities happening on private land that are not in keeping with good forestry practices. We need to do a better job of making sure, if we release trees, and maybe whatever process we do, that we do have some ability, as the crown, to make sure they do a better job of managing whatever their activities are. That's the only thing I'm asking for.

So for that reason, when you do your review around the stumpage fee, I would much prefer a system that basically says, "Charge a renewal charge. If you're going to do your work and do it well, you'll get rewarded by the same thing any other SFL holder does. You can draw that money back from the renewal charge after you've proven that you've done your job." If not, at least the crown's got the money. We can go out and do what we have to do after.

Compliance inspection: the auditor is fairly clear on page 2 of the report, the summary we got, where he talks about something we talk about in northern Ontario because we see it. I've spoken to foresters, forestry technicians and others, both within MNR and the private sector, and I get a bit of a different story depending on who I'm talking to.

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There is some concern there that the ministry at one time did have the staffing capability and had the responsibility of not only doing the good science work and doing the development of good policy but of actually monitoring and enforcing the activities in the forest. We have moved to a self-policed system, basically. It's not self-regulated, but companies like Tembec, Abitibi, Domtar and the rest of them are now in a position where they do that themselves. They pay stumpage, they do the forest management plan, they pay for it, they cut the trees, they do the reforestation and, if they do a good job, they draw back from the renewal fund.

I'm talking to some of the forestry technicians and people who work in the bush. There are some instances where the companies are doing a great job, but there are some instances where they're not. When I look at what the auditor is saying, he is saying, "Ministry inspectors were finding significantly more violations than industry inspectors." Doesn't that cause us some concern, and what are we prepared to do about it?

**Mr Thornton:** Yes, it does cause us some concern. As we indicated previously before this committee two years ago, we have to exercise caution in looking at the numbers without understanding what is behind them. For

example, I mentioned earlier that when a company finds an instance of non-compliance, an infraction, and reports that to us, we go out and verify that, so that one incident now has two measures of non-compliance.

In addition, we in MNR, unlike the company, are not simply randomly checking. We put our emphasis on those areas—this is the risk-based approach that the auditor advised us to follow—where we think we're going to find problems. So it's only natural that we find more problems in those areas that you think are most likely to lead to problems. That's partly behind it as well.

Then there is also a third category where, in some instances, a company inspector may look at a site and judge it to be in compliance. An MNR inspector may say, "No, in my judgment it's not in compliance." There is where we need some more collaborative work and training so that that situation is better understood.

**Mr Bisson:** I guess the problem I have and a lot of people in the public have is that we recognize there are some very good operators out there. There are companies out there, quite frankly, that are doing a pretty darn good job and stake their reputation on it, and to them, we tip our hat. Unfortunately, every now and then come people who are not as good at that.

I understand what you're telling me. You're saying, "We're going to go out and do a risk-based assessment about where we're going to do the inspections." But the reality is that even the best companies, if economic times get tough—if you take a Tembec or any of those, and I rate them with the better ones, and the profit margin disappears, as it has over the past while, there is a certain pressure on those people who are doing the monitoring for the company to be a little bit more lenient than they would be otherwise. I think that's what worries people. It's a problem, and I don't accept that risk-based assessment about where we send our inspectors is going to solve it. I think anybody—the best contractor to the worst contractor—has to be able to know that at any one particular time he or she may be inspected, and never know when they're going to drop in, so we're always doing a proper job.

Like I say, I've talked to forestry technicians and people who work in the bush for all kinds of companies. I've heard some good stories and I've also heard some bad ones, and sometimes it comes from the better operators. Does the ministry have the capacity, in your view, to do that type of monitoring given current staffing levels?

**Mr Thornton:** Again, I go to the numbers. We see in this province 8,400 inspections undertaken in recent years. That's the total number of both MNR and industry. We see a steady increase in that figure over the years. MNR's numbers have declined, but only moderately, from 2,400 in 1998-99 to 2,300 in 2000-01.

So there is still a presence out there. We are still finding problems and we always will. We've put in place training programs now where inspectors can be certified. They're not just out there speculating that this is or is not in compliance; we're training them—

**Mr Bisson:** But that's not my question. I understand the logic of what you're telling me. My question is, do you think that you have sufficient staff members to do the job that you think needs to be done supervising what's going on in the bush?

**Mr Thornton:** I think we're doing the best with the staff that we have.

**Mr Bisson:** I know you're doing the best with the staff you have; that I don't doubt. I know your staff is quite professional and they're doing everything in their power to do the best job possible. That's not my question. Are your staffing levels adequate? That's basically what I'm asking.

**Mr Thornton:** On a global basis, for the forestry program, would I like more staff? Your answer would be yes. But I also appreciate that that's a decision the government makes in terms of how it allocates resources.

**Mr Bisson:** It amazes me that you guys are always so professional in your answers. OK. So I've made my point. I'm not going to stay on that one any longer, but I'm really uncomfortable, as I think many other people are, both in the industry and in the general public, that we do not have the capacity to monitor as well as we would like to.

That brings me to my second point: fire emulation policy. Let me just put it this way. We have come from a time when the forest companies 15, 20 years ago were seen as the bad old lumber barons. We all remember the times that leaders of provincial parties would chain themselves to trees—we're not going to talk about whom.

**Mr Hastings:** I wonder who that was?

**Mr Bisson:** I don't know. Some guy, Bob something or other. I forget his name.

Basically my point is this: there were the bad old days in the forest industry where the environmentalists and people who did not come from the north saw the forest companies as bad old lumber barons. Companies like Tembec, Abitibi, Domtar, a whole bunch of them, have spent millions and a whole bunch of effort, along with government, by way of changes in laws of successive governments. We've all had our hand in this. We did sustainable forestry development; you guys have done some stuff; they did some when they were in power. We have changed that industry into becoming a very green industry, in my view. The forestry industry—and I think somebody tried to allude to that earlier; I think it was actually you, Mr Hastings. We were talking about how sometimes they're not tooting their horn enough about the job they're doing.

The difficulty I have is this: we have spent an inordinate amount of time, all of us, industry and government, to change the practice and the image as the public sees the industry. We are now moving into the fire emulation policies where we're saying it's going to be OK to cut 10,000-hectare clear-cuts in the Gordon Cosens Forest. My problem with the decision to do that is, we are going to be giving an opportunity for those people who are critics of the industry to point to the examples of those large clear-cuts as bad forest practices



and set the clock back, I think, for industry and how it is viewed.

I know what your professional answer is going to be, and I'll be interested to see what you say professionally. But I just want to make the point in this committee that the government and the Legislature should really rethink this whole approach to forest practices. By allowing companies to move toward large clear-cuts when clearly the whole body of work that was actually started by the Liberal Peterson government, which was the forest EA, and finished by us, basically concluded after five years of hearings and after all of the scientific work that in normal circumstances clear-cuts should be no bigger than 260 hectares—that was based on a whole bunch of work that was done. We have now thrown that out the door and we're saying, "In some cases we can go larger than that, and so much larger that we're going to try to mimic what happens when you've got a forest fire." From the perspective of the public, I'm sorry; we normally spend millions of dollars to put fires out so they don't become 10,000 hectares. We like to keep them small, if not at all. I just worry that this move to the fire emulation policy is basically really putting at risk the ability of the industry to be seen as green.

**Mr Thornton:** It's a very common subject matter for us and I'm going to take some time to respond to it because it is important. I'd like to begin with examining what was actually said. You referred to the environmental assessment and the decision of the Environmental Assessment Board where they made mention of this subject of clear-cuts size and how big is too big. It's often been misinterpreted what they did say. Some people feel they set an absolute limit.

**Mr Bisson:** I know, because I know the people who drafted it, and I can tell you with certainty what they said. Remember Elie?

**Mr Thornton:** I remember it well, and I'll read you his words, his and the Chair's.

**Mr Bisson:** It's a good thing he's not sitting here; he'd rip you apart.

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**Mr Thornton:** These are the words of the Environmental Assessment Board, and I'm reading now from a decision dated April 20, 1994. On the subject of clear-cutting, they said, "We conclude that clear-cuts should be made in a range of sizes to emulate natural disturbances, and that—although extremely large clear-cuts would likely be rare for practical reasons—limiting clear-cuts strictly to small sizes would make it impossible to regenerate the boreal forest to its natural pattern of large even-age stands."

Later, on page 173, the board said in its decision, "We accept that some large clear-cuts are required and we rely on the judgment of foresters to make exceptions above the 260-hectare limit for biological and silvicultural reasons such as salvage operations, over-mature stands and wildlife habitat requirements. The rationale for exceeding 260 hectares must be reported in the plan," being a forest management plan. "It is also important that 260 hectares

not become the standard size clear-cut, resulting in only a few clear-cuts being larger or smaller. The evidence is clear to us in supporting a range of various sizes," so much so that the notion of emulating natural disturbances was later adopted in the Crown Forest Sustainability Act, which was passed in 1994. Subsection 2(3) of that act makes specific mention that, "The long term health and vigour of crown forests should be provided for by using forest practices that, within the limits of silvicultural requirements, emulate natural disturbances and landscape patterns," and it goes on beyond that.

I'd like to give you some sense of how our thinking has evolved on this issue, and I'm going to be assisted in doing that by some photos. I'd like to give you some indication of what a fire looks like and the influence fire plays in our forests and how clear-cuts in some measure, in some conditions, emulate that natural disturbance.

**Mr Bisson:** I just want to say that I always said they're very professional, right? He even came with pictures.

**The Chair:** Did you give him the question beforehand?

**Mr Bisson:** No. I love this. These guys are good.

**Mr Thornton:** I have some extras here if you'd like to follow as I go through.

**Mr Bisson:** Sure. Please. It even has my name on it.

**Mr Thornton:** This is a picture following a forest fire. It looks pretty ugly. You can see that the site has been burned. There's a lot of timber on the ground. It's very erratic in terms of the edges of the fire; some standing timber, but much of it on the ground. It's not a pretty sight, any more than a recently harvested stand would look. This is what it looks like from an aerial perspective. Again, a fire, and you can see some very intense places where it's been burned right down to the soil. You see some yellow areas where the fire intensity is not quite as severe. You see the fire has not stopped in any regular, straight-line fashion. It's jumped water bodies, in some instances it's burned to the shore, and it's avoided some wet areas. Here's another aerial shot of a fire, and you can see again that it's very erratic in terms of its pattern; some patches of living timber remaining but many other patches where it's been destroyed.

In our old-style thinking, we thought clear-cuts should look something like this, where essentially you cut it clear of timber.

**Mr Bisson:** Well, we stopped that.

**Mr Thornton:** You look at this and see kind of a checkerboard pattern. You see straight lines, and you see very little standing timber left in the area that's been harvested. That's a theoretical rendition, and this is an actual photo of one of those sites: square boundaries and all the timber piled in nice, neat rows, but a very artificial footprint, if I can use that term, left on the landscape.

During the course of the environmental assessment hearings, much more attention was paid to, "Wait a minute, let's make a stronger effort at having our harvesting methods emulate natural disturbances." A lot of emphasis at that point, in the late 1980s and early 1990s, was

placed on leaving some residuals, leaving some standing timber in those clear-cuts so it's not all cut clear.

**Mr Bisson:** It all blows down in about 10 years anyway.

**Mr Thornton:** That's a good point. In some instances those small, individual trees are blown down.

Now, within the last year, we've put out a guide called the Natural Disturbance Pattern Emulation Guide, and our whole focus is to go further in trying to have clear-cuts in particular emulate the disturbance that Mother Nature would have brought there, largely by fires. You'll ask why I'm so focused on fires. When we started this discussion, talking about the fact that only one third of 1% of our forests are harvested each year, that's about 215,000 hectares each year. To give you some perspective, over the long term we average slightly more than that burned each year. So wildfires are actually disturbing that forest out there to a slightly greater extent than timber harvesting is. If we were to add the impact of wind damage and so on, the number would be even higher.

Understanding those natural disturbances brought to the forest by fire is very important, because that's the pattern we want to emulate when we harvest timber. So this is the kind of disturbance that we would be moving toward. Again you see a very different shape here: irregular shapes on the harvest boundaries, not straight lines. You see a lot of individual trees, but you also see patches of trees left in the clear-cut. To some people it looks sloppy—not a straight line, a lot of trees here and there—but obviously the timber has been harvested. In real life this is what it would look like. You would see trees like that left. You would see the trees in this instance brought to the roadside and available for processing and transportation to the mill, but again, irregular boundaries, a number of trees left on the site with patches of remnant trees there.

If you look at a site like that a year or so later from the air, what you see is that it has greened up. In many instances the area has been planted and, in some instances, left for natural regeneration where the forester feels that's a better means of regenerating the site. You see a distribution of those disturbances out there, and it starts to look like that earlier photo I had of the disturbance caused by fire.

Finally, years later, you see that even some of the roads in the area that was harvested aren't visible because it has grown up. The plantation is coming along nicely, and you start to see different shades of green, the more recent forest plantations being a lighter green and the mature forest being a darker green.

The discussion around size is one that has plagued us. A lot of people like everything I've said. They say—

**Mr Bisson:** Just before you go further, just so everybody is clear, clearly what the environmental assessment people said was that we have to try to emulate what naturally happens in the forest. Nobody disagrees with that. The issue, and I just wanted you to continue on that point, is how big should we allow those disturbances to go? That's where the argument is.

**Mr Thornton:** That's right, and that's a great segue to my next two slides.

How big is too big? The board, as you heard—I read parts of their decision to you—suggested that we look at 260 hectares as a point where we think twice if there are too many clear-cuts larger than that. That was based on evidence around habitat, principally moose habitat and so on.

What we have done within the last couple of years is examine what is a natural disturbance pattern out there caused by fire. We've gone through the history books and looked at what naturally occurs. In the boreal forest, this red line tells a story. In the boreal forest, the northern forest, we see a distribution pattern that looks something like this. We see a large number of small fires, small being less than 260 hectares and a few that are very big.

**Mr Bisson:** This is fire disturbance?

**Mr Thornton:** Yes, these are natural disturbances. This is the pattern that we want to emulate. So in the guide Mr Bisson refers to, which came out just over a year ago, we have now set a standard that says 80% of the clear-cuts in the boreal forest shall be less than 260 hectares and only 20% shall be greater. It's an attempt to emulate that distribution in size that nature brought by fires.

1440

It's a different standard for a different part of the province. If we move farther south, to where I live, along the Great Lakes-St Lawrence, it's a different forest; it's called the Great Lakes-St Lawrence forest region. There, fire is less dominant on the landscape and, as a result, the standard is different, such that 90% of the clear-cuts should be less than 260 hectares and only 10% should be larger than 260 hectares.

I hope that gives you some sense of where we're moving. We understand the criticism, where people are saying that clear-cuts are too large. We acknowledge that there are large ones, but it needs to be put in the perspective of that range of sizes out there.

**Mr Bisson:** Again, I'm not going to stay on this point for much longer. When I talked to the people who were the commissioners on the environmental assessment and I talked to the staff who did the drafting, it is very clear what they were saying to me. They said, "Yes, we want to emulate, naturally, what happens in the forest when it comes to activities of extracting trees," but they were very clear that the only time you were to go over 260 hectares was if there was something—blowdown, an infestation of spruce budworm, whatever. I just want to make clear that as I talked to the commissioners, they basically disagreed with that particular view, that it should be brought to doing fire emulation and using 20% as a guideline.

I just come back to the first point. I'm not going to change your mind on this, because you're just following policy, and I understand that. But I want members to understand what our concern is: if we allow, in this case in the boreal forest, 20% of our clear-cuts to go over 260 hectares, and we do natural disturbance patterns in doing



that, the danger we have in northern Ontario over the longer term and how it can hurt us economically is that it builds an argument for the environmentalists in southern Ontario, and I think rightfully so, to say, "Look how bad a job they're doing up there." Because the reality is, we shouldn't be sustaining cuts over 260 hectares; only, I think, in extreme cases should we be going over. Because at the end of the day, what it does is set the forest company up as one of those bad old lumber barons. The reality is, if I've got a 10,000-hectare clear-cut that I can cut and I can do natural disturbance patterns, I've got fewer roads, it's less cost to bring the wood to mill. That's how people understand it.

I'm just saying that it's a very dangerous policy we're following. In talking to people internally with MNR and talking to people in the industry, I feel that the 20% won't even be followed; I think it'll be higher than that. From what we see in the applications just in our region—I would love to do a bit of research; I bet you more than 20% of the new licences that are now being approved are over 20%, as I see it, because we're looking at the overall of the boreal, but it's concentrated in certain areas, and it ends up being higher than 20%. So I make the point.

To the deputy minister: you should give this man a raise. He's worth every penny. He's worth every penny he's paid, because he's doing an extremely good job here this morning. I understand from the ministry perspective what you guys have to do and what your role is, and I'm not going to quarrel with that. All I'm saying is that from our perspective as policy-makers—because that's what we are; we set the direction and they go and implement the policy—there's a real danger in doing what we're doing here. It's a bit of a trade to the forest companies to try to lessen their costs a little bit, because of the downloading exercise we've had in making them self-policing of activities that the ministry used to do, and this is one way of reducing their costs, because what we've done is increased the cost to the forest industry by becoming self-policing, and industry, rightfully, is looking back at government and saying, "Well, you've got all these requirements that you've given me and you're now telling me I've got to police myself. I've got to pay for that; less money for me at the end of the day," and the government comes with this as a sop. I'm just saying it's a very dangerous route that we follow, and I'll just leave it at that.

Now, I'm in the committee's hands. I've got a few more questions. I don't know if you want to do other 20-minute—

**The Chair:** Yes, we have one on the government side. How much longer do you have, Mr Bisson?

**Mr Bisson:** I probably can do it in about 15 minutes or so. So I'm in your hands at this point. If you want to do full rotations, that's fine.

**The Chair:** All right. Let's go to Mr Hastings, then, just for a change of pace.

**Mr Hastings:** I just had one comment I wanted to make, regarding some of these items, for the ministry people to consider. One, I would hope that we would

make greater efforts in communications and marketing in terms of this connect between the good story I think you're doing in many areas and how that impacts in southern Ontario. I think we need to get a greater understanding by urbanites and not have so much of the distorted environmental viewpoint that I see in some of the materials in the schools and in the attitudes I see when I talk to people. I think you can do some great stories there in your sportsmen's show stuff, in your communications with real people about what the successes are.

Maybe you ought to look at using the non-accessible or non-utilized forest ranger stations that are left now, have some more comprehensive policy that would help some of the folks in the inner cities, not just Toronto, get a better view of how huge northern Ontario is, because they do feel sort of separated. If you go back, there have been lots of political efforts in the past to set up a separate province. I think we need more integration in terms of this industry. There are some great stories to tell in that regard.

I suspect—I don't have any statistics but just an impression—that there are probably skills shortages that will be occurring in the industry, from forestry technicians to managers to the actual foresters going out there. Maybe we're going to get an associate degree with one of the colleges, but I think we can do more in the schools, particularly at the younger ages. How do you do that? The Internet. That Internet site is probably one of the best ways of doing it. If there is any possibility of creating some revenue in a partnership—you look at all these kids who play video games and you say, "What's that got to do with what you people do?" There are probably some connects there, if you look at the dimensions of the industry and how they could be helping you, in terms of getting the message out, because you can't do it yourselves. We have to help out, the industry has to help out, the forestry faculties across the country in Ontario have to help out.

This is a huge strategic industry—billions of dollars per year. It used to be one of the biggest industries in Canada. Just drive around this area and see the result of all that wood that comes out of the north for all the housing. Maybe we need some connections with the greater Toronto home builders, the greater Ottawa home builders, what have you. There are some great stories to be told, instead of this stuff that I see in the media—and it's not your fault per se—that it's the timber barons of the past. It's completely beyond that now.

It'll take time, I know. I hope that you can look at some of those things and maybe provide some leadership, in a strategic forestry summit or what have you, on those things, because they're all linked in some way or other. Thank you. Good luck to you.

**The Chair:** Anyone else from the government side? No? Mr Crozier?

**Mr Crozier:** Just quickly, do you still have the junior forest rangers program?

**Mr Burke:** Yes, we do.

**Mr Crozier:** I applied for that, and I didn't make it. Maybe I could do it in my later years.

**Mr Burke:** With the seniors program.

**Mr Crozier:** The seniors. OK, thank you.

**The Chair:** Mr Bisson, how about 10 minutes? We'll cut it off at 3 o'clock.

**Mr Bisson:** Just give me a few minutes and I'll probably get done even before then.

Just a couple of things quickly. You talked earlier in your presentation about new opportunities for investment in northern Ontario. Cedar, as you know, is one of those. There's a huge problem we've been dealing with. You might be aware of the plant just by Mattice—Les Cèdres du Nord I think it was called. That thing has opened and closed twice, and both times it has closed it's an issue that they can't secure the cedar in sufficient quantity and quality to be able to make it economical. Is there anything new as far as development? We've met with the ministry on a number of occasions in order to try to revive that plant again and to try to find some mechanism to make sure that companies like Tembec, which don't need cedar, which have cedar on their SFL licence—we already have the ability by way of the legislation for the minister to dispose of that wood, but it doesn't happen all that easily. Is there some process we're looking at to secure cedar for those kinds of mills that may need it that is on somebody else's SFL licence?

1450

**Mr Thornton:** I can't speak to the specifics. I am aware of the mill and the troubles it has had. I guess I would offer a couple of observations. One is, first of all, that you're correct: many times the supply for a certain species for a small mill like that relies heavily on the arrangements they can make with other licensees to bring that wood in.

The other issue is a concern that we have, and you as well: sustainability. We want to make sure that the level of harvest of that species is sustainable. In the case of cedar, it's a species that hasn't had as much attention paid to it in terms of its silvicultural characteristics: how quickly it grows, how you regenerate it and so on. Those are, in broad terms, the concerns we have there.

Mike, I don't know if you can speak to the specifics of the mill wood supply.

**Mr Willick:** Clearly, what we have to do is recognize the need and encourage the large SFL holders to co-operate and see that that wood flows.

There are problems with the regeneration of cedar. We don't have the data on that yet. It's excellent habitat for wildlife. We need to make sure we maintain that. The quality is always suspect. You think, lots of trees—

**Mr Bisson:** It looked nice outside.

**Mr Willick:** They're that big and they have a hole that big in the middle.

**Mr Bisson:** It's like a doughnut.

I just say again, for members to understand the policy, the minister has the right, under the sustainable forest redevelopment act, to say, "SFL holder, you've got control of the trees, but you're not using those particular

trees. We're going to give those trees to somebody else. We have that right." The problem is that the ministry very seldom does that in the case of cedar. It's up to negotiations on the part of the proponent in the mill who is trying to get the cedar and the SFL holders, and sometimes that's not easy. Let's face it, companies like Tembec are not in the business of cutting cedar.

My request is that we need to find some way, some mechanism and some policy to more easily transfer that wood from existing licence holders to mills that demonstrate that there is an opportunity for investment.

**Mr Willick:** Our attitude is not to just say, "Go and make a deal with the SFL holder." We're quite prepared to facilitate the discussions.

**Mr Bisson:** That was my whole point: the ministry has to play a role in that because it is very difficult otherwise.

The other thing, just quickly, is on the north of 50, north of the undertaking. For members, I don't know if you know what we're talking about here, but there is a whole tract of land and I think we've actually got a map of it. We were given it this morning. It demonstrates where all the current crown and SFL units are, which are basically south of the 50th parallel. There's a good map that shows it. This whole pink area, which happens to be my riding—I love it; they made it pink.

**Mr Thornton:** Everything above that red line, actually.

**Mr Bisson:** It's just kind of interesting. My whole riding is in there.

*Interjection.*

**Mr Bisson:** It's kind of pink, orange—same thing, right?

Everything north of 50 is aboriginal communities only. The only non-aboriginal community up there I would say is probably Moosonee, which is 90% aboriginal people but, by law, is a municipality. Because there has been a lot of activity as far as forest activities in here, we're now starting to move to try to see if it's marketable to cut trees north of the 50. One of the things we obviously need to do really well, which we've done very badly in the past, is to make sure the First Nations communities are the beneficiaries of whatever happens there.

I wonder if whoever is responsible for that can tell us where you're at vis-à-vis the north-of-50 discussions and we'll see where that goes.

**Mr Burke:** Perhaps I can make a few comments on that and there may be others who wish to join in as well.

We continue to work, and have been working for probably the last several years now, on trying to get what we call community-based land use planning moving. It's the precursor to any kind of development, if ever, taking place in that area.

We've moved fairly slowly, but at the same time we've recognized clearly that most of that area we're talking about is populated by First Nations. We very much wanted to move over the couple of years with First Nations communities not just being involved in the process but actually leading the planning and develop-



ment in those traditional areas that they have worked for very many years.

We're now in the early stages of doing that. We've tried to engage and in fact are successfully engaging some of these communities right now and are moving forward on that. I would suggest to you that we're probably three or four, perhaps even more, years away from seeing any kind of development on that.

The other thing, of course, is that the timber environmental assessment process does not cover that land. So even when we move the planning yardsticks down the road, there will still have to be a process dealing with the environmental concerns and whatever rules will apply to that area, whether it's an extension of the existing rules or a separate set of rules entirely for that area. But we're very much, I think, in the same sort of frame of mind that you are. This is an area that's heavily populated by First Nations, and we will do our absolute best to not only engage them but ensure that there are significant economic returns and benefits for them, as well.

**Mr Bisson:** I only say that there are a whole bunch of things lacking in making that happen. Very quickly, because we're running out of time, I think obviously there's willingness on the part of the First Nations communities to play that role. The difficulty is that they don't have the expertise—the forestry technicians, the people who would run those businesses—in their communities to be able to make the kinds of decisions they have to make about what role they'll play and how they'll play that role.

One of the things that I think needs to happen—and this is something we'll speak to during the general election; it'll be part of our platform as the New Democratic Party—is that we need to basically assist those communities to develop those skills. It's not good enough for us to say, "MNR, go and negotiate with the First Nations communities to develop forest business opportunities," in Ogoki or Moose Factory or whatever area. We really need to support that.

I think a couple of things need to happen. One is that we need to look at bringing aboriginal people into the ministry, number one, and I don't think I need to belabour that point. I think you understand what I'm saying. It's very hard to negotiate with the community if you don't know whom you're negotiating with. One of the things I think we need to do is bring First Nations people into this process, into the ministry, in the very early stages, so that they'll be seen as being MNR employees but who come from there and understand it and have the technical expertise. It allows them also to build technical expertise.

We need to resource—in other words, give money to, communities to be able to hire the kind of expertise and train the kind of people they need who are able to help them make informed decisions about what their role will be. For example, you may know the Constance Lake experience. Constance Lake, a very progressive community north of Hearst, tried to get a business up and going.

They've had some difficulties, as you know, and they've now had to partner with Villeneuve Construction, I think it's called, to show them how to run that business in a more effective way. I think in the end that's going to be a pretty good partnership. That's going to give them the expertise necessary, but we shouldn't have to do it five years after we gave them the licence in the first place.

We need to give communities the kind of support they need to help them develop their skills base. If we want to make them players, in some cases they may not be ready because they don't have the technical expertise to be able to do it. So we need to be able to do that.

The last point is, at the very least, we need to figure out some mechanism—and this is a bit more controversial; we brought this into the House once before, and it was voted down. North of 50 we need to develop some sort of mechanism of taxation for those communities so that if there are forestry or mining activities, we give them the same type of ability as Timmins or Sault Ste Marie or anybody else, which is to be able to benefit from those industrial activities by way of taxation so they can build their infrastructure. You only need to go to Attawapiskat or Ogoki or any of those communities to see that quite frankly they are Third World conditions. That we allow that to happen in our own backyard and then as Canadians preach to the Third World about what it should be doing I find highly hypocritical. So that's the comment I would make on that.

There's one very last thing, if I have the time, Mr Chair. I just want to be clear on the mill licences. I am correct in my interpretation and understanding of both the act and the regulations that in the case of a mill licence—in other words, if I am cutting trees to furnish the mill in Cochrane, the licence is tied to the mill, right?

**Mr Willick:** Say that again.

**Mr Bisson:** An SFL licence that gives you permission to cut trees in a particular community, that licence is tied to a mill.

**Mr Willick:** No, it's not. We have a number of licences that are not held by even a mill owner.

**Mr Bisson:** But there's a directive in the licence that the trees have to go to that mill, right?

**Mr Willick:** Yes, in some licences there are directives, that's correct.

**Mr Bisson:** It's also within the regulations that they have to take into consideration the social and economic impacts on a community when deciding what to do with the trees in that forest. That is part of the policy.

**Mr Willick:** That's correct.

**Mr Bisson:** OK. That's all I wanted. Thank you.

**The Chair:** Thank you very much. If that's all, I'd like to thank the deputy and the other gentlemen who are with you today for a very informative session and wish you well in the future.

We stand adjourned until Monday morning at 10:30 for the open session, 10 o'clock for the closed session.

*The committee adjourned at 1500.*











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PROVINCIAL AUDITOR  
MINISTRY OF FINANCE

Consideration of section 5, public accounts of the province.

**The Vice-Chair (Mr Bruce Crozier):** I'll call to order the meeting of the standing committee on public accounts to review the auditor's 2002 annual report, and in this case, consideration of chapter 5, public accounts of the province. We have with us this morning the Ministry of Finance. We welcome you. We welcome everybody. I just remind you that if any of us have cell phones, we'd appreciate it if they were turned off or muted or in some way made silent. We'd appreciate that when you initially address the committee, you provide us with your name and your—

**Mr Richard Patten (Ottawa Centre):** Date of birth.

**The Vice-Chair:** —name, rank and serial number; how's that? The procedure will be as normal. You'll have up to 20 minutes, let's say, around there, to make any comments that you wish, and then we'll start in rotation with the caucuses and see how it goes.

**Mr Gabriel Sékaly:** Thank you, Mr Chair. Good morning. My name is Gabriel Sékaly. I'm the assistant deputy minister of the fiscal and financial policy division at the Ministry of Finance. With me is Robert Siddall, who is the provincial controller. I'd like to apologize; the deputy minister at the last minute was not able to attend this morning. I'll do my best to answer the questions you may have.

Today we're here, as the Chair said, to address issues raised by the Provincial Auditor in chapter 5. We've handed out a presentation, a slide deck, that I'll go through. On slide number 2, basically the issues that are being addressed in chapter 5 are the government reporting entity; multi-year funding; the move to accrual accounting for appropriation control, also known as the estimates; the federal tax error; stranded debt on the electricity sector; and finally, accounting for tangible capital assets.

I'm happy to note that as referred to in chapter 5 of the Provincial Auditor's annual report, the province received an unqualified opinion on the 2001-02 financial statements. In fact, the province has received an unqualified

opinion on all of its financial statements since fiscal year 1993-94. This has been accomplished by working closely with the Provincial Auditor and his staff over the years to ensure that we are complying with the stated accounting policies of the province, which are those standards recommended by the Public Sector Accounting Board.

Slide 4 talks about the Public Sector Accounting Board, or PSAB, which is an arm of the Canadian Institute of Chartered Accountants and is responsible for issuing recommendations and guidance on accounting and financial reporting by governments in Canada. It is independent of governments, and its recommendations are developed through a public process with comments provided by government accountants, provincial and federal auditors, academics and other interested parties. The province has implemented PSAB standards in its summary financial statements since 1993-94 and in the budgets since 1995-96. This was in response to the recommendations of the Provincial Auditor as well as the Ontario Financial Review Commission.

The first issue raised by the Provincial Auditor is the government reporting entity. PSAB was established in 1981 and has been developing standards and guidance for all levels of government over the last 20 years. They have a number of projects that we're currently working on, including those referred to in chapter 5 of the auditor's report. The process of developing new recommendations can take two to three years before completion.

One of the first areas that PSAB is working on is undertaking a review of the criteria in determining which organizations are included in the government reporting entity; in other words, which organizations should be included or consolidated in the province's financial statements.

As indicated on slide 7, the province currently includes in its reporting entity all government ministries, significant government organizations such as TVOntario and the Ontario Financing Authority and significant government enterprises such as the LCBO and the Ontario Lottery and Gaming Corp. School boards, colleges, universities and hospitals, also known as the SUCH sector, are not included in the government's reporting entity; however, other provinces include some or all of these organizations in their reporting entity, as in some cases these organizations form part of government. In other words, they're directly delivered by government departments.



On page 8, in November 2002, PSAB issued an exposure draft on the government reporting entity. PSAB undertook this review because of difficulties with interpreting and applying the existing criteria, particularly with respect to school boards, universities, colleges and hospitals; in other words, the SUCH sector.

Slide 9: the proposed new PSAB standard focuses solely on control as the determining factor for whether an organization is included in the government's reporting entity. Control is defined as the power to govern the financial and operating policies of another organization with expected benefits or risk of loss to the government from the other organization's activities.

Slide 10: the proposed PSAB recommendations will be principle-driven, requiring the government and the Provincial Auditor to review the actual circumstances in determining if control exists. Depending on the assessment of control, the proposed new PSAB standards could have significant impacts for the province, potentially requiring the consolidation of school boards, universities, colleges and hospitals. The Ministry of Finance and the Provincial Auditor's staff are currently reviewing the proposed new standards to determine the implications for the province and the broader public sector.

Slide 11: the province has responded to PSAB's exposure draft. It has provided the following advice to PSAB: there should be direct consultations by PSAB with the SUCH sector on the implications of these proposed changes; there should be research by PSAB into the expectation of the public users of financial information with respect to responsibilities and accountabilities of the SUCH sector; there should be an analysis of the incremental financial reporting benefits to the public in relation to the cost and an analysis of the impact on public accountability structures and the delivery of primary health and education programs to the public; finally, there should be a more feasible implementation timeline, given the need to conform SUCH sector accounting policies to those of the province if they are to be included.

As indicated in chapter 5 of the Provincial Auditor's report, school boards use a different method of accounting for capital, as an example, than the province does. In addition, the ministry also recommended that the issue of how to account for any new organization be resolved prior to issuing any final recommendations.

Before implementing any key recommendations issued by PSAB, I believe that some key questions need to be answered. Do the recommendations help the public better understand the operations of government, and will the benefits of implementing this outweigh the costs to implement it? Ministry of Finance staff are currently reviewing the proposed new standards to determine the implications for the province and the broader public sector. Ministry of Finance staff will continue to work with PSAB and the Provincial Auditor and his staff on this issue. This is an ongoing process which should be completed in the next few years.

The next issue, on slide 13: in his 2000 annual report and in subsequent reports, the Provincial Auditor com-

mented on transfers provided by the province to fund the activities of transfer recipients over a number of years. These transactions were booked by the province as current period expenditure in accordance with PSAB recommendations and consistent with common practice among other jurisdictions in Canada. The Provincial Auditor has expressed concerns with this accounting treatment but noted that PSAB does not deal with the issue in an unequivocal manner. He recommended that funding which relates to future years be treated as advances, included on the government's statement of financial position as assets and drawn down and charged as expenditure in the years in which the activities funded actually occur.

PSAB has recently established a task force on government transfers, which is looking into this issue of multi-year funding. The Ministry of Finance staff continues to work with both PSAB and the Provincial Auditor's staff on this issue.

Slide 14: the government introduced amendments to legislation in the spring 2002 budget bill, which received royal assent in June 2002, that converted legislative spending authority and appropriation control to the accrual basis of accounting effective fiscal year 2003-04. This change is in line with the government's commitment to improving accounting practices in the context of a more efficient, effective and accountable government. It provides for more transparency for the members of the Legislature and the public. The Ontario Financial Review Commission in 1995 and 2001, as well as the Provincial Auditor, recommended the adoption of accrual accounting for legislative authority and appropriation control.

In January 2002, the federal government announced that it had made an error in calculating the province's personal income tax revenue in prior years. The Canada Customs and Revenue Agency, or CCRA, collects and administers the personal income tax of all provinces except Quebec. The federal error resulted in overpayments of personal income tax revenue to the province. The provincial portion of capital gains refunds paid to mutual fund trusts was not properly deducted from the personal income tax revenue remitted to provinces. The federal government has demanded repayment of a total of \$1.3 billion for the taxation years up to 1999. The amount included in the province's revenue in 2001-02 for taxation years 2000 and 2001 was \$713 million. Consistent with proper accounting treatment, the province's 2001-02 financial statements included a provisional adjustment for the federal tax error, and the province's results for 2001-02 were retroactively adjusted for the error.

I want to also thank the Provincial Auditor for his help in dealing with this issue. He, along with the federal auditor, reviewed the work of CCRA in determining the extent of the error, and as best we could, based on the information that CCRA had, provided assurance to the province in terms of the extent of this error.

Notwithstanding that, the province does not agree with the position taken by the federal government on this matter. Booking the adjustment for the federal error does

not prevent Ontario from making a claim or initiating other legal action in future against the federal government. In his 1999 annual report the Provincial Auditor commented on certain problems with the tax collection agreement between the federal government and the provinces, and we are working to resolve those issues.

Slide 17: on the issue of stranded debt, the Provincial Auditor has agreed with the accounting treatment of the stranded debt of the electricity sector as it is reflected in the budget and the public accounts. However, he has continued to express concerns about the risk that the stranded debt will not be recoverable from ratepayers and will therefore become a liability to the taxpayers.

As part of the audit of the public accounts, the Provincial Auditor reviews in detail the forecasts of the defeasance of this debt. The model is updated each year for changing circumstances and continues to support the defeasance of this debt within a reasonable time period. The model will be updated and audited again as part of the 2002-03 public accounts.

On slide 18, I'd like to finish my presentation by talking about accounting for tangible capital assets. We are pleased that the Provincial Auditor supports the decision of the province to move to full accrual accounting for the province's investment in tangible capital assets beginning in fiscal 2002-03. Reporting capital on a full accrual basis is similar to private sector accounting for capital with the assets carried on the province's balance sheet being amortized over their useful life. The province is taking a phased-in approach and will be reporting on land, buildings and transportation infrastructure initially. The remaining assets will be brought on once the province's new financial system is fully implemented.

Both the Provincial Auditor and the Ontario Financial Review Commission have recommended that the province enhance financial information on tangible capital assets. The 2002 budget included the impact of changing our accounting for tangible capital assets. The Ministry of Finance continues to work with the Ontario Realty Corp, the Ministry of Transportation, the Ministry of Northern Development and Mines, and the Provincial Auditor in moving forward with this initiative.

In conclusion, I'd like to thank the Chairman and members of the standing committee for the opportunity to appear before you. The Ministry of Finance staff will continue to work with the Office of the Provincial Auditor, PSAB and other jurisdictions in the development of financial reporting and accounting standards for governments.

I'd be happy to take any questions you may have. Finally, I'd like to note that I know all of you are so busy that additional material may not necessarily be helpful. However, we have brought a guide that we've passed out, a recent publication entitled *A Guide to Financial Management Policies and Practices in Ontario*, which could be a useful source of information for members. We've tried to explain in as plain language as possible the accounting and how financial management policies and practices are evolving in Ontario.

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**The Vice-Chair:** That concludes your remarks. We'll then simply begin our rotation, and I think we're picking that up this morning with the government caucus. Mr McDonald.

**Mr AL McDonald (Nipissing):** We'll pass our time this round.

**The Vice-Chair:** OK. Mr Patten.

**Mr Patten:** My question is—and Mr Siddall, perhaps you might want to answer this—in terms of the role of the comptroller, did the finance committee know that indeed there were overpayments to the province from the federal government in terms of the tax collection this year?

**Mr Sékaly:** Did the Ministry of Finance know?

**Mr Patten:** Yes.

**Mr Sékaly:** No, the Ministry of Finance was not aware of the situation until—I think January 29, 2002, is when the federal government informed the province of this overpayment. We do not have the information. We rely on the federal government to provide us with accurate information and data. If you want, I'm sure the Provincial Auditor's office, which was involved in reviewing this, could add to that.

**Mr Jim McCarter:** That's correct; the information just isn't available. Actually, we were asked that by officials at CCRA, and we did not know until advised in January 2002.

**Mr Patten:** Education is expensive, so presumably now—and maybe I'm being presumptuous, but if I were in finance, I'd say, "We'd better have our own system of getting a handle on what it is and on the accuracy of our arrangement with the federal government." Maybe that's one of the things the task force or committee is looking at in anticipation that this may—hopefully it wouldn't, but if it did occur again we would be on top of it and anticipate that we'd be caught with a shortfall or whatever it is.

**Mr Sékaly:** Yes. I believe the federal Department of Finance was also surprised by the error that CCRA had made on this issue. We are trying to solidify the information from the federal government, from CCRA as part of the tax collection agreement, to get accurate information that we can rely on; not only ourselves but also the auditor as his office audits the books of the province. There has to be representation from the federal government that these numbers are indeed accurate.

**Mr Patten:** Mr Comptroller, is this one of your recommendations in here, in terms of controlling the knowledge and the accountability of anticipated funds or—

**Mr Robert Siddall:** I think it's something we have to look at. But in the past, we've had audit procedures done by the Auditor General of Canada on the numbers. I know Mr McCarter has been working with the Auditor General to see what procedures we can put in place from an audit perspective to see that this doesn't happen again.

**Mr Patten:** My only point is that I think it was an error on behalf of the feds which was fairly costly for us.



But at the same time, it seems to me that to avoid the possibility of a future event, we must have some relationship of being able to know as closely as possible to payment schedules expectations of what the dollar figures may be, even though they may be estimates. That wasn't a question.

In terms of the government reporting entities and the Provincial Auditor talking about fairly large transfer recipients—they use the term “SUCH group”: school boards, universities, colleges and hospitals. It used to be the MUSH group; the municipalities were included in that and presumably still are. They are substantial, and I guess their concern is that, following the money with major transfers, there would be a role for the auditor's being able to take a look at this. Or in the definition—you mentioned that there was a review of criteria of what should be included and that the auditor was using the term “essentially control.” So I want to ask you about your saying the committee is examining criteria, followed by perhaps discussions and consultations with such groups about the implications of all this. Are there any preliminary leanings in terms of the criteria that might be used in this instance?

**Mr Sékaly:** First, I'd like to clarify: it's the Public Sector Accounting Board, PSAB, an independent arm of the Canadian Institute of Chartered Accountants that has put out an exposure draft and is leading the consultations. We, just like the auditor's office, as is the case for all governments and auditors across Canada, are providing input and recommendations or advice to PSAB as they develop the criteria that would determine whether an organization is within the government's reporting entity.

There is an exposure draft out. We have responded to it, asking for additional research to be done, especially in terms of ensuring that whatever is undertaken and whatever is done in terms of the reporting entity benefits transparency and benefits the taxpayers in understanding the government's financial statements. I think that's really the overarching criterion we're looking for PSAB to take a look at and to consult with the entities that may be affected, because in Ontario, if we look at the SUCH sector, there are 160 hospital corporations, 72 school boards and 24 colleges. There are a substantial number of organizations that make up the SUCH sector, and we really have to look at the cost benefit in terms of consolidating these organizations and whether it would improve accountability and transparency to the taxpayer.

**Mr Patten:** Well, there's no doubt in my mind—sorry, go ahead.

**Mr Siddall:** For example, just recently the Institute of Chartered Accountants has taken a position that school boards should be included in the recommendations of the Public Sector Accounting Board. So there would be requirements for changes in their accounting policies, where they do not capitalize their investment in tangible capital assets, which would have to be made. There would be a significant change in the requirements they have in terms of reporting their financial information.

**Mr Patten:** OK. Using that as an example, there's no question in my mind—first of all, these proposals have to be made to the government for approval.

**Mr Sékaly:** Basically, PSAB puts out final recommendations, based on the input they get, and governments look at those recommendations and in most instances try to develop an implementation schedule to meet those requirements.

**Mr Patten:** I come from an area where the government actually operates the whole board. Even before that the controls that put in the directives, the definitions of operation, even the nature of capitalization in that arrangement is pretty well controlled and dictated by the provincial government. So there's very little elbow room at all.

There's no local taxation. The taxation that used to take place locally is now picked up by the province and goes into its consolidated revenue fund, I gather. In other words, one simple definition is, would this unit survive without government funding? Of course they wouldn't; they couldn't. That's true of many of these others, and therefore there may be a role.

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Now, the role may not be, and I'm just voicing an opinion here, as intrusive as one might expect or anticipate. It may be being able to negotiate an arrangement whereby all of these boards and agencies and hospitals—they all have their own audits anyway, so presumably it would be discussions between auditors as to what kind of information you needed; not that you'd have to do it every once in a while, but you would be given the option of spot checks, presumably, from time to time, it would seem to me.

But I tell you, and this is in your area but I still have to make the point as a legislator, that it is BS—that's baloney sauce—to think the trustees out there have any power at all. It is totally controlled by the province, and the only vehicle they have if they disagree is to defy the law and not produce a balanced budget. Some of them do it because they feel they cannot make further cutbacks, so you have these so-called supervisors—“superlords,” I call them, dictators—who are now operating these three particular school boards, one in my area. I find that most distressing. That's a political decision, I understand.

But in terms of the hospitals, universities and what have you, how it is worked out, it seems to me, is the nature of the game: not whether or not it is, but of course whether or not it is will be a political decision.

**Mr Sékaly:** We'll await the final recommendations of PSAB and we'll work with the Office of the Provincial Auditor, as we always have, in terms of implementing the recommendations of PSAB so that our financial statements properly reflect accounting policies.

I just want to note that it would be more complex than just taking audits from those entities, because our budget and our financial statements are equivalent and we would have to be able to take in all that information as well as part of the budget process and report on it on a quarterly

basis, as we always do. So it is a little more complex than just spot checks on organizations.

Again, I want to stress that once PSAB has put out their final recommendations, we will work with the Office of the Provincial Auditor, as we always have, to properly reflect those recommendations in our financial statements and in our budget etc.

**Mr Patten:** I have one question related to the stranded debt. You say in here, under the stranded debt, that Finance is concerned about the risk that the stranded debt may not be recoverable from ratepayers.

**Mr Sékaly:** Actually, it's the Provincial Auditor who has expressed that concern.

**Mr Patten:** Oh, I see. OK. I'd appreciate your view, but the other question I was going to ask was, given the freeze or the cap of 3.4 and—what is it commercially?

**Mr Sékaly:** The freeze is 4.3.

**Mr Patten:** Yes, 4.3. That's not across the board, though.

**Mr Sékaly:** I'm not sure what it is for industrials.

**Mr Patten:** OK. I was going to ask you about the net impact since applying the freeze. What has that meant in terms of adding to the accumulated debt or the stranded debt?

**Mr Sékaly:** The government is reviewing those implications. The government's position is that the freeze announced over four years will, over that four-year time frame, pay for itself. We will be working, through the audit process, with the auditor's office to take a look at the defeasance model in terms of the audit of the Ontario Electricity Financial Corp as well as the public accounts and see what the implications may be on that, and we'd have to have some further discussions with the Provincial Auditor's office.

**Mr Patten:** What was the rationale that any difference would pay for itself?

**Mr Sékaly:** It's based on a projection of the price of electricity over the four-year period based on independently derived models of the price of electricity, as I understand it.

**Mr Patten:** As I recall, having read this fairly recently, if we're not the lowest jurisdiction, we must be one of the lowest jurisdictions in terms of rates of electricity, and we're in fact subsidizing the rates because of the freeze. I know it's politically attractive. People like to feel it's in control. But everything I hear from business people—one of the rationales I've received is that there's no way the private sector is going to want to get in, even on the generation side, because the rates are too low; you can't make a buck unless there's some special arrangement made, and if there's some special arrangement made, then it means the government is subsidizing the actual cost to the taxpayers over that particular period of time, and that's got to be driving up the debt. Is that a fair scenario?

**Mr Sékaly:** I couldn't comment on the motives of investors in terms of bringing new generation into Ontario. The government did provide a number of incentives in November, when this announcement was made, to in-

crease investment in terms of tax measures and also provided RST rebates to consumers to buy energy-efficient appliances. Those are all part and parcel of an overall strategy in terms of the electricity sector.

**Mr Patten:** I agree. Do you have investors knocking down your door?

**Mr Sékaly:** I'm not the person you should be asking that question to. I don't deal with investors.

**Mr Patten:** OK.

**Mr Siddall:** Only my own RSPs.

**Mr Patten:** And those aren't looking so good these days, are they?

My final question, and it perhaps comes out under the final slide, "Accounting for Tangible"—no, it doesn't, but it has been an ongoing discussion, and I asked the auditor this too, and that is the format of financial reporting by ministries. It has always been a challenge. I was on estimates a number of times, but I found it too frustrating. You spend half your time trying to figure out what this really means. I believe the auditor had recommended—and PSAB as well—a more transparent format of reporting the actual budgetary estimates and actuals.

Our committee has discussed this a number of times, and actually members on all sides have expressed concern. When you try to look at trends or comparisons, there's a shift—conveniently, it appears; that's my editorial comment—because you can't track what the heck really went on, because it's hard to compare apples with apples and oranges with oranges. Is the finance ministry—I know there have been recommendations, and perhaps the Audit Act itself might have some impact on this and the recommendations therein—at the moment looking at the nature of the format of reporting in terms of the transparencies and the ability to deal with what's what and to be able to do a better trend analysis?

**Mr Sékaly:** The first thing I'd like to note is that I did state that the estimates appropriation control is changing to the accrual basis as of April 1. Therefore, there will be a direct comparison between the estimates, which used to be on a modified cash basis, and the budget number and the public accounts number. So that will be done as of April 1. The reason it took so long is that we needed a new financial system, which we're implementing, to be able to have an accrual-based system. So that's the first one.

The other thing is, I think the auditor has noted under new PSAB initiatives that PSAB has put out a statement of principles and financial statement discussion and analysis in terms of providing supplementary information to people, with variances and trends. We are looking at that statement and we will be working with PSAB.

I don't know, Robert, if you have anything to add.

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**Mr Siddall:** In taking a new look at what's in that financial discussion and analysis that PSAB is recommending we move to, we've seen that a lot of those items they are recommending are included in the annual report of the province of Ontario. That annual report, I believe, has been out four years. Last year we moved the sum-



mary financial statements into the annual report so that it was a complete picture. So it is something we've been working on and will continue to work on with PSAB and the Provincial Auditor.

**Mr Patten:** Can I ask a question? This is just for my own education. Where would the initiative come from? I know ministries put out their own estimates and all that kind of thing, but the format for that—is Finance the chief director on this, or is it Management Board?

**Mr Sékaly:** The format for the estimates and the format for the public business plans is Management Board of Cabinet.

**Mr Patten:** OK, good. Thank you very much.

**The Vice-Chair:** That segment of 20 minutes is up. We move to the government caucus.

I'd just point out that it is five to 12. For those who require lunch, being from 12 to 1, we should take that into consideration, but we might also look at how many more rounds of questioning we have. Mr McDonald.

**Mr McDonald:** Chair, we'll pass on this round again, if the other caucus wants to continue.

**The Vice-Chair:** Is it your intent, might I ask, to have any questioning?

**Mr McDonald:** Not unless something comes up in the discussion.

**The Vice-Chair:** OK. Shall we then spend a little more time and see how it goes? We'll look at this by the time we get to 12:30 or something like that, as to whether we should break for lunch.

**Interjection:** Sure.

**The Vice-Chair:** OK.

Mr Gerretsen. The train has arrived.

**Mr John Gerretsen (Kingston and the Islands):** The train has arrived. It was only an hour and a half late, but here we are. I'm sorry; I missed some of the earlier discussion and some of the questions that may have already have been covered. I apologize if that happened.

If you've already addressed this, please just say so and I'll look at the Hansard, but I'm interested in the stranded debt of the electricity sector. If you dealt with this earlier, please just tell me so, but could you give me a little bit of background as to how exactly you dealt with this in public accounts documentation, and I may have some questions on this.

**Mr Sékaly:** In terms of the presentation and the numbers in terms of the stranded debt, this was done in concert with the Office of the Provincial Auditor as to the presentation and the verification of the numbers. The model is reviewed by the Provincial Auditor on a yearly basis as part of the public accounts process reviewing our books as well as reviewing the books of the OEFC, the Ontario Electricity Financial Corp. The Office of the Provincial Auditor is the auditor for that corporation as well, so in essence the presentation and the numbers are verified and signed off by the auditor.

**Mr Gerretsen:** Just so I understand, the \$19.4 billion was not a figure that was arrived at by your ministry; this was a figure that was given to you, in effect, by—

**Mr Patten:** The government.

**Mr Gerretsen:** Well, by the government, but more appropriately by the hydro corporations.

**Mr Sékaly:** No. I believe, and Robert can correct me, that—maybe you should take this.

**Mr Siddall:** It basically arose out of the restructuring of the companies into new companies and the decision as to how much debt those companies would be carrying and how much investment the province would be showing in those companies.

**Mr Gerretsen:** But those decisions were not made by your department; they were made either by the government or by the hydro companies. Am I correct in that? I'm just trying to find out who made the decision to put the number of \$19.4 billion on that. And, I suppose, tied into that, how were the assets of the corporation evaluated?

**Mr Sékaly:** The decision as to the division, shall I say, of the old Hydro debt into the different components was made by the government based on the equity the province has put into OPG and Hydro One. What's left over at the end is what is called the stranded debt.

**Mr Gerretsen:** Another question then. What has the government's change in electricity policy—which was the subject of the last bill that went through the provincial House just before Christmas in guaranteeing people the 4.3 cents per kilowatt hour—done to the projected paydown on the stranded debt? In other words, is the stranded debt going to be paid off by the ratepayers on a more prolonged basis than what was originally planned?

**Mr Sékaly:** As we were talking about that earlier, the model will be reviewed this year again, like in previous years, by the Office of the Provincial Auditor in terms of defeasance. The government's position is that over the four-year time frame of this 4.3-cent freeze, it will pay for itself as electricity prices come down. The actual impacts we will see in the future: this forecast is based on independent forecasts of the price of electricity going out over the next number of years. We will be discussing specific impacts with the Office of the Provincial Auditor as we go through the audit of the OEFC and the provincial public accounts.

**Mr Gerretsen:** Dealing with the issue of the special warrant and the treasury board orders—I'm looking at a chart here on page 423 which seems to indicate that up until last year, the magnitude of the treasury board orders for which I assume there was no direct legislative mandate or approval given has been increasing over the years. Does that give you any concern at all? I notice last year it was significantly lower, but when I look at 1998, for example, there's \$1.1 billion, and it had risen to \$2.1 billion by the year 2001, on page 423. Does the Ministry of Finance have any concerns about the fact that these treasury board orders are increasing in magnitude?

**Mr Sékaly:** I don't know all the details, for the past years, of what caused the different treasury board orders in terms of the magnitude. Obviously there were specific circumstances in each of those years that resulted in increases in terms of treasury board orders. I don't

believe that we have any big concern over the magnitude of treasury board orders. It varies from year to year depending on circumstances. I think we had, in some years, some major investments in the hospital sector. I think that may have accounted for some of that, as well as major investments in the post-secondary sector that had not been anticipated at the time of the voted appropriations. I don't know exactly what the composition is.

**Mr Gerretsen:** Do you have any concern at all over the fact that—well, maybe you could tell me what the previous numbers are. On page 425, the auditor stated that the write-offs that occurred in the years he dealt with amounted to “\$47.1 million for uncollectible taxes relating to retail sales tax receivables” and “\$37.7 million for uncollectible taxes relating to corporation tax receivables.” Is that a number that's increasing?

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**Mr Sékaly:** I believe those numbers actually are less than the previous year. The other thing we should remember is, as in all corporations or all companies, there are certain amounts of debt that are uncollectible. What we do have in terms of total retail sales tax—and I'm just looking up the number. For example, in 2001-02, of about \$14 billion we're talking about \$47 million. It's significant but, again, it's out of \$14 billion in one year of RST. These are outstanding amounts from a number of years ago. We have implemented tightening up of the procedures. I think there was a discussion at previous public accounts of a corporations tax, so I won't go into that because I'm not an expert anyway and I wouldn't be able to answer all your questions.

**Mr Gerretsen:** Could you explain to me and maybe the general public out there the principles that are used to determine when a tax is uncollectible. Do you allow it to run for a certain number of years and then say after year three or four, “The company is no longer in business; it doesn't have any assets,” etc? At that point in time do you write it off, or what are the general principles that you use?

**Mr Siddall:** The general principles, in terms of collecting any receivables of the government, are to do the collection of the receivables as early as possible after the invoice has been issued. Collection is much better if you try to collect it quickly. Various departments that have receivables will do a combination of dunning letters, which basically tell people they are in arrears, and hiring collection agencies to help them out in terms of collecting the information. The final process is that you have to write off the debt if the cost of further collection is deemed to be less than the benefit.

But the province has, even with written-off amounts, gone back and taken a look four or five years later to see if the circumstances of the debtor have changed and reconstituted collection efforts, if we believe there's an opportunity to get the funds that are owing to the province.

**Mr Gerretsen:** In a totally different area, education taxes, since the government now pretty well controls the entire education budget, either through the amount of real

estate taxes it's getting from the municipalities or through its allocation on an annual basis for that, the auditor comes to the conclusion that he states on page 414: “In effect the Ministry of Education now centrally manages and controls the most significant aspects of the primary and secondary education system,” from a financial viewpoint.

**Mr Patten:** Where they have supervisors, they actually do have control.

**Mr Gerretsen:** Right. In the three boards where supervisors have been appointed, you control that entirely. As a result of that, since you now control the entire funding mechanism in one way or another, with a stroke of the pen from the finance minister in determining how much should come from the property tax base or how much the government will actually contribute to that on an annual basis, do you feel that in effect the actual financial accounting that's done within each board of education should be within the mandate, the responsibility, of the Provincial Auditor?

**Mr Sékaly:** In the earlier discussion and my presentation we talked about the new PSAB exposure draft and the government reporting entity which has certain criteria for what would be in the government's reporting entity. It's an exposure draft. We've all responded to it: governments across Canada as well as auditors' offices and other interested parties. There is some clarification required and work to be done to implement the final recommendations of PSAB whenever they come forward. We've said, as in the past, that we will work with the Office of the Provincial Auditor to implement recommendations from PSAB in terms of the reporting entity and any other recommendations from PSAB in terms of the possible consolidation of organizations within the reporting entity of the government of Ontario.

**Mr Gerretsen:** One final area, then, before I turn it over to Mr Crozier, who has some questions as well, deals with the capital funding situation. The same thing can apply to the Ontario Innovation Trust fund, if I remember correctly, that basically in a lot of years, expenditures are shown—and he specifically refers to it on page 416: “I noted that \$1 billion of capital funding for hospitals was reported in the province's financial statements as health care expenditure for the year ended March 31, 2000, but in volume 1 of the Public Accounts, the \$1 billion was reported as a health care expenditure for the year ended March 31, 2001.”

I guess from a layman's viewpoint, it sounds like the moment an allocation of funding has been made toward a project etc, the public accounts regard that money as having been spent—the same thing as what happened with the innovation trust, where X number of dollars was put in the Ontario Innovation Trust and actually very little of it was spent in that year. You show it as being expensed, but the expenditure really hasn't happened yet because the actual work that's being done, I assume, is either being done in the following year or at least it's actually being paid for in the following year.



What can be done in order to deal with that situation so that we actually have a much better handle on the fact that if an expenditure is happening in a particular year, that's the year in which that expenditure will actually be shown? As he points out, that did not happen with the \$1 billion of hospital funding.

**Mr Sékaly:** Again, to restate what I said in my presentation, we booked those expenditures in accordance with PSAB recommendations and consistent with common practice in other jurisdictions in Canada. The auditor has expressed concern about that accounting treatment and has noted that PSAB, the Public Sector Accounting Board, does not deal unequivocally with this matter. PSAB has now established a task force on government transfers, which is looking into this matter. Once we have an exposure draft or recommendations from PSAB, again, we will work with the Office of the Provincial Auditor to implement these recommendations, as we have done in the past.

**Mr Gerretsen:** So basically what you're saying is that you're following PSAB rules and the PSAB rules don't deal with this situation, and, "Therefore, Provincial Auditor, you may have that opinion, but we don't agree with you."

**Mr Sékaly:** All I'm saying is that the Provincial Auditor has given us a clean bill of health, as it were, on our financial statements. We had an unqualified opinion. The booking of these expenditures was consistent with PSAB and consistent with practice in other jurisdictions. Obviously, accounting is not a black-and-white issue; there are grey issues many times, and it is an evolving field, as PSAB and other jurisdictions look at changing circumstances.

As I said, PSAB has established its task force on government transfers, which will be dealing specifically with this issue. We are providing comments to PSAB, as I am sure the Office of the Provincial Auditor is as well. We will work with the auditor's office once the recommendations from PSAB are out to see how we can deal with those recommendations in our financial statements.

**Mr Gerretsen:** OK. Mr Crozier wants to take his seat. I'll take the Chair.

**Mr Bruce Crozier (Essex):** We'll play a little bit of musical chairs.

Good morning. There was an employee who went to the payroll department of his firm and said, "I think you've underpaid me in the last pay period. Would you check that out?" which they did, and they came back to him and said, "Yes, in fact during the last pay period, we shorted you on your pay, but in this investigation we noticed that in the pay period before that, we overpaid you." The employee said, "Well, I can tolerate one mistake, but I certainly can't tolerate two."

Herein lies my dilemma, because I think we want to be fair, and when it comes to the federal tax error, I want it known—I'm a provincial member—that I'm resolutely on the side of the province. The issue is, as always, that we have one taxpayer, and we have two levels of government that are now arguing over how a mistake should

be settled. Do we have a policy in place that if we found that we had underpaid one of our transfer partners, we would simply, on discovery of that mistake, pay that transfer partner? Do we have a policy in place?

**1210**

**Mr Sékaly:** You can well imagine that our dealings with our transfer partners is based on—there are a substantial number of transfer partners in Ontario, but the transfer partners know the budget that they'll be getting from the individual ministry and the provision and the timing of the payments from the provincial ministry. So all that is known beforehand.

In terms of the federal government, it was based on estimates of tax revenue that CCRA provided, and that changes year to year depending on how well people are doing in terms of their income as well as how well people are doing in the stock market. During those years in question, people were doing very well in the stock market and so the incomes were going higher and governments across Canada were benefiting from an increase in personal income tax as well.

So I don't believe that the situations you describe are analogous in that sense. The information from CCRA, from the federal government, as we stated earlier, is audited by the federal auditor, who signs off on the veracity of that information. Obviously the federal auditors also did not know that CCRA was committing this error. I believe the error goes back quite a number of years. Jim McCarter could probably talk about that more in depth than I can, because he did go up, as part of a review of auditors across Canada with the federal auditor, to look at this error and see what could be done about it, where it started and what the implications were.

**Mr Crozier:** Would you agree that the amount that now has been audited—in other words, the Provincial Auditor's office has been involved, the Auditor General has been involved and in fact other provinces have been involved. Notwithstanding the disagreement on whether this should be paid to us or not, do you agree that at least the amount that now has been put forward, that \$1.33 billion, is a reasonable or accurate amount?

**Mr Sékaly:** I could agree that the federal auditor and the Provincial Auditor have verified the veracity of that number.

**Mr Crozier:** But you don't agree that it's accurate?

**Mr Sékaly:** No, I agree that is the accurate number as they have stated, as to the veracity of their number. Whether or not the province of Ontario owes that money to the federal government is another matter which is not in my bailiwick. As I said earlier, the province is still of the opinion that we should not be repaying this funding.

**Mr Crozier:** OK. I guess I've made my point, that when it comes down to absolute fairness, who owes who what, there is at least some significant disagreement out there at the current time. Whether it needs to be paid back or not is disagreed.

I'd like to, for a moment or two, go to the stranded debt. I have a question or two on that. You mentioned that there were some incentives back in November in this

area, one of them being of course a provincial sales tax exemption on certain energy-efficient products from the consumer standpoint. Notwithstanding the fact that with a frozen rate at 4.3, which is today, for example, being significantly subsidized, there's no incentive not to use energy. There may be incentive to buy an energy-efficient product to be exempt from tax. But what incentives, if any, that you're aware of are there for us to simply reduce our use of electricity?

**Mr Sékaly:** I'm not the expert in this field, so I'm sure there a number of energy conservation incentives apart from the RST one. We can get back to you on that. I know, from personal experience, I just bought a new washer and dryer, and they're energy-efficient ones. So that's my own personal—

**Mr Crozier:** I was asked as I was Chair—because we too just bought a new washer and dryer. I didn't recall that there were any incentives on those, but I'd better double-check that. I may be owed some money.

**Mr Sékaly:** Yes. They have to be Energy Star-rated, I believe.

**Mr Crozier:** Yes. But as a consumer and an official of the Ministry of Finance, you're not aware of any particular incentives to reduce the use of electricity, outside of the purchase of energy-efficient—

**Mr Sékaly:** I believe there are also incentives in terms of solar panels; I'm trying to recall from memory.

**Mr Crozier:** Are there? I'm trying to be informative to what little public may be watching this.

**Mr Sékaly:** I believe there are incentives in terms of solar energy systems. I think there are incentives in terms of corporate income tax for corporations which bring in energy-efficient equipment. But we can get you a full list of the measures that were announced in November, if you're interested.

**Mr Crozier:** The government's position, as you mentioned earlier this morning, was that the subsidy would pay for itself over the four-year period in which it has been announced, and yet the experience from November 1 until now would indicate that the subsidy is at least as much as the government might have anticipated or even greater. Can you advise me as to where we are today, four months into this, and whether your expectations are being met or not?

**Mr Sékaly:** I think Ontario has been blessed by two events over the last little while: the hottest summer and probably the coldest winter. So that obviously has an impact. But we believe that over the four-and-a-half-year period of this freeze the plan will pay for itself. I don't have any further details at this point in time, but that will all be part of the public accounts.

**Mr Crozier:** Was the Ministry of Finance involved in this plan, this estimate, prior to the rate stability being announced?

**Mr Sékaly:** As in many other issues, the Ministry of Finance is involved in many things, including this one.

**Mr Crozier:** What you're saying, though, is that notwithstanding the fact you were involved in it, you're not

sure how we're doing on that; whether we're ahead, behind or even?

**Mr Sékaly:** It's not in my area, in terms of immediate knowledge, so I don't have a tally of where we are at this point in time.

**Mr Crozier:** Were you involved in the original planning for this rate stability?

**Mr Sékaly:** I've been involved in many different things, in parts of this not—so yes, I have been involved in parts of this rate stability.

**Mr Crozier:** So you were involved in the planning, but you're not involved in determining whether it's working or not?

**Mr Sékaly:** There are other people within the Ministry of Finance who are dealing with this issue.

**Mr Crozier:** I don't mind if you just say you don't have the information here today.

**Mr Sékaly:** I don't.

**Mr Crozier:** That's the way it goes sometimes on these questionings, so that's OK with me.

I'll just look quickly to see if—in order to assist the committee on getting to the point that we want in today's deliberations—the auditor's report, on page 413, says, "In Ontario, SUCH-sector"—that's schools, universities, colleges and hospitals—"organizations are not included in the reporting entity because they are not considered to have met PSAB's inclusion criteria of accountability and ownership or control."

Just to refresh my memory while I was in the chair, that's a decision, then, that is made by the Ministry of Finance?

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**Mr Sékaly:** No. PSAB is an independent body and it's arm's length of all governments. It's part of the Canadian Institute of Chartered Accountants. They put out recommendations on how governments should be reporting certain things. They do have a task force right now on the government reporting entity where they are proposing to change the criteria, which are right now accountability, ownership and control, to one criterion, being control, as I stated in my presentation.

The application of PSAB guidelines is done by the government in consultation with the Office of the Provincial Auditor. We will be, once we have the new guidelines, as it were, from PSAB in terms of the reporting entity, reviewing those implications on the government's reporting entity with the Office of the Provincial Auditor to determine what the next steps are in terms of the province.

**Mr Crozier:** I just wanted to make clear that when the auditor says they are not considered to have met these standards, you're saying it's the auditor and the Ministry of Finance who determine that since they haven't met the standards, they're not included.

**Mr Sékaly:** That's correct.

**Mr Crozier:** OK. The auditor's report goes on to say, "If such agencies were included in the government's financial statements, it would have a significant impact on the province's reported financial position and its



operating results.” Could you give me some idea of what that impact would be?

**Mr Sékaly:** It’s very hard to tell. There are, as I said, 160 hospital corporations, 72 school boards, 24 colleges, and I don’t remember how many universities—about 30 universities. So I really do not know what the impact would be of consolidating that many organizations into the government’s reporting entity.

**Mr Siddall:** The impact would not be just on the revenues and expenditures of the province, but also on the province’s investment in tangible capital assets and the debt that’s in those sectors as well. So the impact is equally as much on the balance sheet or the statement of financial position of the province as it would be on the statement of revenue and expenditures.

**Mr Crozier:** So in just a general way, could I conclude from this that the impact would be significant? Whether it would be positive or negative, you’re not sure today, nor am I, nor is anyone else, perhaps. But notwithstanding that, do you think it would be significant, that the reporting would mean more to the people of the province of Ontario in a significant way?

**Mr Sékaly:** One of the issues that we talked about in the presentation is whether such consolidation provides more transparency for the users of financial information, be it the taxpayer. Does this help in terms of accountability and reporting or not? I think that’s one of the key issues that PSAB should look at: whether a consolidation of that many organizations in the government’s financial statements leads to better reporting, better accountability.

**Mr Siddall:** The impact might be significant on revenues and expenditures and insignificant in terms of the surplus or deficit. That’s one of our concerns, that this exercise will take a lot of time and effort but that the impact on the surplus might be immaterial.

**Mr Crozier:** That raises an interesting point. I’m all for having the SUCH sector brought in and as much reported on and reviewed by the Provincial Auditor as possible. In fact, I’m very much in support of my colleague’s Bill 5 on this very issue. Notwithstanding the fact that it may or may not be significant, I just happen to think that it’s the right thing to do.

When you review the auditor’s report, which I assume you do, in fact you may sit down and have some discussions with the auditor’s staff prior to the issuance of the report. For example, on page 414 it says, “In effect, the Ministry of Education now centrally manages and controls the most significant aspects of the primary and secondary education system.” Does a statement like that kind of pop out at you, and do you discuss the significance of a statement like that with the auditor, or do you just simply let that be the auditor’s opinion?

**Mr Sékaly:** In terms of the discussions with the auditor, there are discussions as to the annual report. There are some things that are the auditor’s opinion, and that’s the auditor’s opinion so we leave it at that. The clarification of facts is basically what we discuss with the auditor’s staff.

**Mr Gerretsen:** I just have one further question. I wonder if I could just—

**The Vice-Chair:** Sure.

**Mr Gerretsen:** Thanks.

It deals with the stranded debt situation. I’m just trying to get my head around this and I’m just reading from page 419 of the auditor’s report, where he states, “The financial performance of Hydro’s successor companies for the fiscal year ended March 31, 2002 was well below expectations. The government expected its two wholly owned Hydro successor companies”—that’s OPG and Hydro One—“to earn \$524 million during that fiscal year; instead, the two corporations” earned only \$179 million, leaving “a shortfall of \$345 million.” So there was only \$179 million that was actually earned.

He then goes on to say, “The \$179-million earnings ... were insufficient to offset the government’s \$520-million annual interest charge on debt issued for its \$8.9-billion investment” in the two corporations. And this is the relevant part: “It should be noted that, under the recovery plan, only amounts earned by the two successor companies above the \$520 million are set aside for stranded debt recovery. Accordingly,” since “none of the \$179 million in earnings is available to reduce the stranded debt,” the result is that “\$341 million was absorbed by Ontario’s taxpayers”—not ratepayers, but taxpayers.

His concern is, “Since the government is responsible for the stranded debt, if its plan to recover the stranded debt through ratepayers fails, the taxpayer will ultimately be responsible for that debt.”

The question he has is this, according to this statement on page 419: “If the plan can no longer be supported, the government should recognize this debt on its financial statements as recoverable from the taxpayers.”

So the question is, why aren’t you doing this?

**Mr Sékaly:** As I stated earlier, through the public accounts process and the audit of both the government’s financial statements as well as the audit of the OEFC’s financial statements, the auditor audits the feaseance model that is put in place in terms of dealing with the stranded debt. We have discussions with the auditor in terms of dealing with that. Up to this point, the feaseance model has been sufficient to state that it would be recovered from ratepayers and not taxpayers. We will be going through the same kind of audit this year with the Office of the Provincial Auditor and, in having those discussions, we believe that the feaseance model is still viable and is such that the stranded debt will be recovered from ratepayers and not taxpayers. But, again, we will be going through this audit with the auditor.

**Mr Gerretsen:** But let’s assume that this year the same thing has happened as last year. After how many years of this happening will you actually say, yes, there’s something wrong here, and in effect the taxpayers are being hit rather than the ratepayers, and therefore we should be showing this as an additional taxpayers’ debt rather than ratepayers’ debt?

**Mr Sékaly:** I don’t wish to hypothesize on what may or may not be. We will be going through the audit as we always do, with the Office of the Provincial Auditor, and we will be dealing with these issues as we go through that audit.

**Mr Gerretsen:** Thank you. That's all I have.

**The Vice-Chair:** Any further questions? Well, you've done well. We're going to get out of here before the afternoon. We want to thank you and your staff for coming today and we appreciate the time we've spent with you.

That would appear to conclude the business of the standing committee today. I remind you that we will be meeting at 9:30 on Thursday morning to discuss the auditor's report with regard to long-term care. This committee stands adjourned.

*The committee adjourned at 1229.*









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Third Session, 37<sup>th</sup> Parliament

## Assemblée législative de l'Ontario

Troisième session, 37<sup>e</sup> législature

# Official Report of Debates (Hansard)

Thursday 27 February 2003

# Journal des débats (Hansard)

Jeudi 27 février 2003

### Standing committee on public accounts

2002 Annual Report,  
Provincial Auditor:  
Ministry of Health  
and Long-Term Care

### Comité permanent des comptes publics

Rapport annuel 2002,  
Vérificateur provincial :  
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## LEGISLATIVE ASSEMBLY OF ONTARIO

## ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON  
PUBLIC ACCOUNTSCOMITÉ PERMANENT DES  
COMPTES PUBLICS

Thursday 27 February 2003

Jeudi 27 février 2003

*The committee met at 1001 in room 151, following a closed session.*

2002 ANNUAL REPORT,  
PROVINCIAL AUDITOR  
MINISTRY OF HEALTH  
AND LONG-TERM CARE

Consideration of section 3.04, long-term-care facilities activity.

**The Vice-Chair (Mr Bruce Crozier):** The standing committee on public accounts will come to order. We're meeting today to consider the 2002 Annual Report of the Provincial Auditor, and in particular to consider section 3.04, long-term-care facilities activity for the Ministry of Health and Long-Term Care. Welcome. I appreciate your appearing before the committee this morning.

One of the rules we operate under, Deputy Minister, is that we will allow up to approximately 20 minutes for you and your staff to address the committee. We'll then have rotation of the caucuses that will be 20 minutes in length for questions and comments. We will begin with the Liberal caucus.

I ask that any cellphones in the room be turned off or somehow muted so they don't interrupt the proceedings. We look forward to a productive meeting. One other thing: we would appreciate it if anyone who addresses the committee gave, as I have said, their name, rank and serial number, if you like. Thank you very much. You may begin, sir.

**Mr Phil Hassen:** Thank you very much, Mr Crozier and committee members. I appreciate having the chance to speak to you on these matters before you. My name is Phil Hassen. I am the Deputy Minister of Health and Long-Term Care. So that you have some context, I've been in the job for approximately six months. I'm running up to this very quickly, and I appreciate all the help from my staff who will be here as well to assist me today.

On behalf of the ministry in general, I'm pleased to meet with you and to have the opportunity to respond to the report of the Provincial Auditor as it applies to long-term-care facilities activity. Let me preface my remarks with an overview of long-term-care facilities services in the province. As many of you know, the government funds and regulates three types of facilities: nursing homes, municipal homes for the aged and charitable

homes for the aged. These facilities are governed by the provisions of the Nursing Homes Act, the Homes for the Aged and Rest Homes Act and the Charitable Institutions Act. Per diem funding arrangements, care standards and eligibility requirements are the same for all three types of facilities.

As you probably know, long-term-care facilities take care of people who are no longer able to live independently in their homes or who require 24-hour nursing services. Nursing services are provided by registered nurses and registered practical nurses. As well, many people would say that personal support workers and health care aides are also providing a form of nursing support and personal care.

Long-term-care facilities are also funded specifically to provide other quality-of-life-related services, including some recreational activities, therapists, and other programs designed to assist residents in maintaining a good level of functioning and enable them to enjoy life.

Eligibility for admission is determined by a community care access centre, or CCAC. The CCAC also determines priority for admission and manages the waiting lists for facilities. As of January 6, 2003, the province funded 64,132 beds in 541 facilities. These include 376 nursing homes, with a total of 38,604 beds; 99 municipal homes, with a total of 16,558 beds; and 66 charitable homes, with a total of 8,970 beds.

Now let me turn to the 11 specific recommendations by the Provincial Auditor, recommendations that we very much appreciate the opportunity to respond to and take seriously. As well, we want to talk about some of the steps that we've taken to address these matters.

The first recommendation of the auditor was to ensure that long-term-care facilities meet the assessed needs of each of their residents. The government does ensure that. Certain standards for quality of care are provided to residents of long-term-care facilities through the ministry's long-term-care compliance management program. This program consists of annual inspections of the long-term-care facilities, and inspections as required by specialists such as dietary experts, environmental advisers and financial analysts. Investigations of complaints submitted by residents, their families or the general public are also attended to.

The ministry's compliance management program is carried out by registered nurses, registered dietitians and certified health inspectors with a background in long-



term-care. These are all dedicated professionals with an interest in long-term-care services who are fully committed to ensure the health and quality of life of long-term-care facility residents.

Currently, the ministry is undertaking a comprehensive review of its compliance management system in order to determine areas of improvement. The ministry continues to recruit for vacant positions to meet the needs of the compliance management program. The core of this review is the further development of a risk assessment approach. This may include additional risk factors that will act as triggers for action by compliance staff and senior management. These indicators and actions would be in addition to actions that are currently triggered by reports from the compliance management team. The ministry currently conducts annual reviews as well as unannounced compliance investigations and other types of review visits to long-term-care facilities, and we are considering unannounced annual review inspections in the future.

The second matter raised by the Provincial Auditor was that the ministry should better protect the health and safety of residents of long-term-care facilities. As you can appreciate, we are committed to protect the health and safety of all residents. We demonstrate this commitment through ministry reviews of resident care and services. This includes four key components: program and service reviews, indicator identification and analysis, in-depth review of residential care, and review of staffing. I must say that virtually all, but not all, go through an accreditation process as well through the Canadian Council on Health Services Accreditation.

For the program and service review, the compliance adviser examines the operation of each facility to assess compliance with the established standards and criteria.

For the indicator identification and analysis, the compliance adviser undertakes focused audits to review and evaluate resident care, programs and services from a risk-management perspective, concentrating on significant care concerns. Where possible, residents are interviewed from all resident care units. In addition to the residents selected for focused audits, a minimum of five residents are selected for the in-depth care review.

The review of staff deployment is completed to assess the allocation of staff in accordance with residents' needs as well as the staffing information submitted with the service agreement.

It is also our policy to investigate and respond to specific complaints within 20 days, and we are diligent about putting this policy into practice. While the ministry has a good track record of responding to complaints, it is continually striving to improve it. Ministry staff follow up on unusual occurrences, either at the time of the occurrence or during an annual review of a facility. In conjunction with local public health agencies, the ministry has strict protocols and procedures in place to ensure resident safety in outbreak situations. Local public health officials determine when to declare a facility in

outbreak status and monitor the progression and resolution of that outbreak.

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The ministry is committed to improving its data entry systems and information management with respect to these issues and will use these data to identify and resolve any systemic problems.

Third, we are to ensure that all long-term-care facilities provide high-quality care to all residents in compliance with applicable legislation and government policies. We are very committed to providing high-quality care to all residents, and that's why the ministry's compliance advisors monitor facility compliance with the legislation, regulations, ministry policies, service agreements and the standards and criteria contained in the long-term-care facility program manual.

The ministry responds to all complaints, and I can assure you that it is conscientious in doing so. The enforcement function, formerly carried out by head office, was transferred to the regions in the late 1990s.

The Minister of Health and the director of long-term-care facilities have the authority to impose sanctions on long-term-care facilities. The ministry is reintroducing support for the enforcement function at head office and has hired an enforcement coordinator, whose function will be to coordinate the corporate compliance and enforcement unit. This unit will be responsible for monitoring high-risk facilities, the coordination of enforcement activities, improving data collection and analysis, the development of educational programs for compliance staff and, frankly, other operational support for the corporation and regional offices.

Also as part of this recommendation, we are to ensure that all long-term-care facilities have valid service agreements and that all nursing homes have valid licences as required by the legislation. The government is taking decisive steps to make the health care system more accountable to Ontarians. For example, each year facility operators must sign a service agreement with the ministry outlining what programs and services will be provided in exchange for funding. The ministry is undertaking a review of the management process supporting service agreements. The 2001 and 2002 service agreements have been distributed to facility operators. The ministry will distribute the 2003 service agreements to facility operators by April 30, 2003. I'm pleased to report all eligible nursing homes have had valid licences as of September 1, 2002.

The next issue is that the government ensure fairness in the levels of funding provided to long-term-care facilities. This government is committed to long-term-care facility services. To demonstrate that commitment, it will provide nearly \$1.8 billion in long-term-care facility program funding in 2002-03. This funding represents an unparalleled \$700-million increase since 1995. From 1998-99 to 2005-06, \$602 million of the \$1.2 billion is being invested in long-term-care facilities to bring the number of beds from approximately 57,000 to 77,000, to match the increased care requirements of all 77,000 residents.



Fifth, we should ensure that the funding provided to a long-term-care facility is sufficient to provide the level of care required by residents and that the assessed needs of residents are being met. I'm pleased to report that effective August 1, 2002, the government did increase nursing and personnel care funding by \$100 million, which amounted to \$6.33 per resident per day. The total per diem for a long-term-care facility with average care levels is \$110.73. Currently, long-term-care facilities receive differential funding based on the care needs of their residents. We recognize that we need to move forward on the implementation of an improved assessment instrument in the long-term-care facility sector. This instrument will assist the ministry to develop staffing standards and outcome measures to improve resident care.

The ministry has been investigating the feasibility of a new resident classification instrument and funding methodology that will enhance its ability to better assess resident care and staffing needs.

Another recommendation is that surplus funding to long-term-care facilities be accurately identified and returned to the province on a timely basis. Let me assure the committee that the ministry will review the form and content of information currently collected from facilities to ensure that it is meeting ministry needs. In addition, the ministry's goal is to distribute the 2001 and 2002 reconciliation reports to long-term-care facilities by the end of this month. As well, the ministry has developed a consistent revenue-occupancy report. Beginning January 1, 2003, all seven regional offices have been monitoring and adjusting cash flows as required.

Ensuring that the need for long-term-care beds is met on a timely basis is the seventh recommendation. The government's plan has always been to provide the health services Ontarians need, not just for today but for the 21st century. More beds will mean less waiting. As announced in April 1998, the government is making room for Ontario's growing and aging population by building 20,000 new, additional long-term-care beds by the end of 2004 and by rebuilding approximately 16,000 so-called class D beds by the end of 2006. To accomplish this goal, the government is investing an unprecedented \$1.2 billion in long-term care.

Until the new beds could be built, the government put in place 1,700 interim beds as a short-term solution to place patients awaiting transfer from hospital to a permanent long-term-care facility. The 1,700-bed target has been met and has assisted greatly.

The new bed expansion process is right on schedule, with all locations announced for the 20,000 new long-term-care beds to be developed. As of February 3, 2003, more than 8,400 new beds have been built and more than 7,800 additional beds are tendering or under construction.

In addition, we are currently conducting policy work on a long-term strategy for long-term care. This strategy will look at the full range of services available to seniors and make recommendations about program responses. The long-term-care planning and utilization methodology

is a program that will enable the province to project needs into the future as well as monitor and adjust responses on a continuous basis.

We are pleased that the auditor noted that the ministry's target of 100 beds for every 1,000 individuals aged 75 and over was consistent with the target recommended by the Health Services Restructuring Commission.

The future of long-term-care facilities is affected by many factors, including the availability of home care, chronic care and other services that are available to these people. The policy work that the ministry is currently conducting on a long-term-care strategy will look at the full range of services available to seniors before making its recommendations about future programs and services.

Eighth, we are to ensure that the per diem paid to long-term-care facilities for capital construction are consistent with the actual construction costs incurred. The ministry's policy for funding long-term-care facility construction costs and development agreements requires operators to submit audited statements of final capital costs. The ministry is currently finalizing Final Statement of Disbursements forms and guidelines to ensure that long-term-care facility operators submit the required audit statements to the ministry within given timelines. The ministry is also developing an electronic tracking system that will allow for the monitoring of the status of long-term-care facility development projects which have been completed and are receiving the per diem construction funding to ensure their actual construction costs are reported to the ministry within the given deadlines.

To ensure that justification for all decisions in awarding new long-term-care beds is properly documented is the ninth matter raised by the auditor. We have taken note of this recommendation and will undertake to do our best to ensure proper documentation of all decisions.

Tenth, we are to ensure that funding for structural compliance is fair and that it encourages facilities to meet the new design standards. Again, the ministry is currently conducting policy work on asset management and facility renewal. This policy work will ensure that funding for structural compliance is fair and that long-term-care facility operators are encouraged to meet the new design standards.

#### 1020

Finally, the 11th issue is to provide better accountability to the public. Comprehensive annual reports from the long-term-care facility compliance reviews are already posted at facilities for the public to see and are available to interested parties. It is the ministry's intention to move to a system that collects data and organizes the information to develop individualized residential care plans in order to ensure that we can reduce nursing time spent on documenting and to increase time spent on providing care and that uses the data to develop risk-weighted quality indicators. These quality indicators will enable us to set benchmarks that facilities must meet; and that compares facilities using the benchmark data. The ministry will take corrective action where necessary.



In closing, let me stress again that the government takes the Provincial Auditor's report as an important opportunity to improve what we do. In addition to the government's commitment to enhance the health system is the commitment to ensure that the health system is accountable to Ontario taxpayers.

Thank you, Mr Chair and committee members. Now my colleagues and I will be pleased to answer questions. I have at least three people here immediately to my right and left who are experts in these areas. They will be answering, probably, many of the questions you have.

**The Vice-Chair:** Thank you, Deputy Minister. We'll begin the questions and comments with the Liberal caucus, Mr Gerretsen.

**Mr John Gerretsen (Kingston and the Islands):** Good morning, everyone. Let me just say at the start that I think this is probably one of a number of different areas that the province is involved in where due diligence by the ministry and by all the people who are involved in dealing with residents in our long-term-care facilities—this is probably more important than any other from the point of view that many of these people have no one there to look after them, to protect their interests, to advocate for them. I think that's why it's all the more important that whatever procedures we have in place to ensure their dignity, their respect and their highest quality of life should be undertaken.

The way I look at it and as the auditor indicated earlier to us before this session opened, there are basically three areas that there are concerns about. One is the lack of staffing standards; another is the whole inspection area; and finally, is there enough assurance with respect to the adequacy of care from both a quality and a quantity viewpoint? During the day I want to develop some of these areas.

The first one I want to start on, which is probably the one that we could focus on the most directly, is the whole area of inspection. I realize you have been in the job for only six months and I'm sure that many of the people within your ministry are highly adequate and competent individuals etc. But I'd just like you to respond to what the auditor actually had to say when he did his audit.

I quote first of all from page 117. This is what he had to say about inspections: "Although the ministry inspected all long-term-care facilities in 2001"—that's only two years ago—"it did not have a risk-based approach for prioritizing its facility inspection procedures, such as conducting in-depth inspections of facilities with a history of failing to meet provincial quality-of-care standards." That's sort of a general statement that he makes.

He then goes into much greater detail on page 124. When I first read this last November when he came out with this report, I almost couldn't believe that this could be happening in as modern a province, with its highly regarded civil service, as we have here in Ontario. I'm quoting to you from the second paragraph on page 124:

"We reviewed the licence status of nursing homes and found that at the time of our audit, none"—not most, not some; none—"of the nursing homes operating in the

province of Ontario had a valid operating licence." I don't know, out of the 538 facilities, how many would be nursing homes—maybe you can give me that information—but none of them had a valid licence. How is that possible?

He goes on to say, "While most of the licences had expired within the last year, at least 15% of licences had expired more than one and a half years ago. In fact, we noted one facility whose licence had expired in 1994," seven years before the audit was done, "another whose licence had expired in 1997, and two others whose licences had expired in 1998. As well, most nursing homes that opened after 1998"—so these are the newer ones—"had never been issued a licence to operate." How in goodness' name could that possibly happen?

I'll just finish off the quote. It says, "According to the Management Board of Cabinet directive on transfer payment accountability, a signed agreement" between the province and the operator "must be in place prior to advancing any provincial funds to transfer-payment recipients, which include long-term-care facility operators." But presumably none of those were in existence for any home that has opened since 1998.

Can you give us an explanation as to how that happened? Were there simply too many other things on the ministry's plate, and licensing was regarded as, "Well, we'll get to it when we get to it"? This is a stunning indictment against one of the fundamental principles in which your ministry is involved in inspecting the long-term-care facilities that 60,000 of our most vulnerable citizens in this province reside in. It's their home. How could you let that happen? Please provide me with an explanation.

**Ms Mary Kardos Burton:** Mary Kardos Burton, assistant deputy minister of community health. I'd like to take your three points in that order and attempt to respond to them.

In terms of the inspection and what we're doing with our inspection, the auditor said we needed a better risk-based approach, and we've taken the auditor's concerns to heart. We are doing a compliance management review right now, and I think the ministry is very proud to say that we have done 100% of the inspections, which is a good thing. But what it doesn't necessarily address is the giving of more time to the ones that have a trend or historically—

**Mr Gerretsen:** OK. But just a minute now. Excuse me for a moment. No inspections were done prior to the audit, which would be about a year ago now. You're saying to us that all of the facilities have now been inspected and licensed. Is that correct?

**Ms Kardos Burton:** I said they'd been inspected, they were 100% inspected. What the auditor said was that we needed a better risk-based management approach. We agree with the auditor, and we're doing that right now in terms of looking at compliance management.

**Mr Gerretsen:** So 100% of the nursing homes have not as yet been licensed?



**Ms Kardos Burton:** That's your second point. The licences have been in place since September. We understand the auditor's concerns around the licensing, and so we did in fact put the licences in. But just because they don't have a licence doesn't necessarily mean that they're carrying on—but we took the auditor's concerns to heart, and all licences have been in place since September.

**Mr Gerretsen:** But I assume that when you license a facility or when anything gets licensed, there is some sort of inspection mechanism taking place to see whether or not that facility meets the requirements of the legislation. For you now to say, "Well, just because a place isn't licensed doesn't mean it's not run properly," I totally agree. But if that's the answer, then why are we licensing any of them? Presumably we license so that we give people who live there and their caregivers some sort of guarantee that there are certain standards in place, certain things that we've looked at—perhaps only in a very rudimentary way, but that gives protection to the people who can't speak for themselves, namely the residents. You're not downplaying the licensing part, are you?

**Ms Kardos Burton:** We certainly agree in terms of the care we need to take with our residents, and we do devote attention to that. Paul Tuttle, our director of long-term-care facilities, will address the licensing issues in more detail.

**Mr Paul Tuttle:** As Mary said, it's Paul Tuttle, director of long-term-care facilities. Excuse my voice; I have a cold today.

**Ms Kardos Burton:** We all do.

**Mr Tuttle:** I know. I wasn't asking for sympathy.

We have the licences in place for nursing homes, not for charitable homes or municipal homes. They never have been licensed; there is an approval process. The reason we have the licence, as a matter of fact, is as a financial instrument for the—

**Mr Gerretsen:** It's a what? Sorry.

**Mr Tuttle:** It's a financial instrument for the owner to demonstrate equity. If you were to go and talk to the long-term-care association and say, "Why do you guys have licences?" they would say, "Well, we need something to demonstrate to the banks."

It's true that we were behind in the licensing process. We've made some administrative changes. We've been caught up since last September and will remain caught up with those licences, which, by the way, are deemed to continue from the point the operator applies. However, they aren't directly related to care. That's not why they're there, or else we'd license all the facilities; we wouldn't be just licensing nursing homes. They're a financial instrument. So the licences are up to date.

1030

As far as the compliance, I'd just add to what Mary said that we have, in fact before the audit, started a major compliance review to look at how we could do a better job of focusing our attention in those particular facilities where we're experiencing more problems. Right now we examine everybody every year and we spend four or five

days on an annual review with all facilities, those with very good records and those with not-so-good records. We're taking what the auditor said to heart and this spring we'll have a report that's going to recommend substantial changes to the compliance program. But again, I want to stress that those licences are not to do with compliance; they're two separate issues.

**Mr Gerretsen:** Well, you may say that, but a lot of people take comfort in the fact that when they walk into one of the facilities it's kind of like, and I don't want to make the comparison, walking into an elevator and seeing a licence there; presumably, somebody has taken a look at it and it's still safe. It's the same thing here.

If you're now saying that the licence is just some sort of a financial situation that we're not really concerned about, I just don't buy that. We either have it in place for a good and proper reason, which is the protection of the individuals who live there, or we don't have it in place. I guess you were directly contrary to the Management Board of Cabinet directive that says a signed agreement must be in place prior to advancing any provincial funds. The auditor says, "We noted, however, that the ministry's normal practice is to finalize and sign service agreements after the funding year has passed."

Why aren't you adhering to these rules and regulations that at least give the people who live in these places some comfort that the rules of the game are being adhered to? I'm not even talking about the quality of care that is being delivered or the sufficiency of the number of people who work in these places. But these are some things that—just give me an explanation, because I find this very, very frustrating.

**Mr Tuttle:** I'd like to respond first to what you said about the idea of having the licence on the wall; you do make a good point. But again, what most people would look to for assurance in a long-term-care facility in Ontario isn't the licence on the wall, because about half the facilities wouldn't have those because they're charitable through the municipals. What they look to is the annual report, which must be posted each year and tells exactly what the results were at the annual inspection of that facility. That's the kind of thing people would look to for assurance.

As far as the service agreements, like the licences, many of our documents have evergreen clauses. However, we've taken what the auditor said very seriously and as far as service agreements go, the reconciliations associated with those agreements, we expect to be caught up in the current year. We have been behind. Nobody's questioning the point the auditor made that in some of our administrative and clerical procedures we could really stand some improvement. We are working very hard on that and taking it very seriously, and appreciate what the auditor has told us.

**Mr Gerretsen:** OK. You've just talked about the next area that I want to get into, and that's the inspections. Do you give notification to the nursing homes and to the homes for the aged and the charitable homes before an inspector goes in, or do you have surprise visits? If you



do have surprise visits, how often do you have the surprise visits?

**Ms Kardos Burton:** We normally have given notices; however, the auditor—

**Mr Gerretsen:** Why?

**Ms Kardos Burton:** —did request that we in fact do surprise visits and we are doing those.

**Mr Gerretsen:** How many have you done?

**Mr Tuttle:** Right now, all facilities are inspected annually. We have been notifying people. We have always had the right and have always conducted surprise inspections. Usually it has been in response to a complaint or a concern that's been expressed to us. As the deputy mentioned earlier, part of our compliance review—and I don't want to pre-empt the report, because it isn't out yet, but we are seriously considering, like many jurisdictions, having some or all of the annual reviews on a surprise basis. Our stakeholders have various views on that, but I think it's a fairly safe bet that we're going to move in that direction.

There are disadvantages. Most people would say that if you announce you're going, they're going to be all prepared, everything's going to be in place and all the paperwork is going to be done, whereas if you go on a surprise visit, you can get a better understanding of what's really going on at the place. We agree with the auditor in that respect.

Having said that, it's not uncommon for a compliance person to go in at 5 am in response to a complaint. It's the annual review process that we're—

**Mr Gerretsen:** I asked you a question, sir: how many surprise inspections have actually been done within the last month, within the last two months? You pick the time period and you give me the number.

**Mr Tuttle:** I'd have to endeavour to get back to you, because we're not doing annual reviews on a surprise basis yet. We've taken that recommendation and we're likely to introduce that in a coming year.

**Mr Gerretsen:** Can you give me a ballpark figure? Have there been any done at all, sir?

**Mr Tuttle:** Absolutely.

**Mr Gerretsen:** In every region?

**Mr Tuttle:** I won't endeavour to say in every region. I would speculate that in every region there have been surprise—we respond to complaints on a surprise basis. Our compliance advisers would be in to facilities—there are over 40 advisers, and it's safe to say that they're in there, very conservatively, 50 times a year in different facilities. So we're in several thousand times each year. Some of those visits are surprise; some aren't.

**Mr Gerretsen:** You called them compliance officials rather than inspectors, which assumes that obviously it's—ultimately I only talk about one thing, and that's the care and quality of care that the resident gets. All the other stuff is more dealing with governance and how things are done. But that's what I'm talking about. This isn't to try to trick any operators in there. Let me tell you, the vast majority of people I have met who work in these homes—I like to call them homes, not facilities—do an

outstanding job. They're grossly underpaid and overworked, because the people who live there are older and need a lot more care than when I first got involved municipally 25 years ago. A lot of these places are chronic care hospitals now. They are no longer the traditional nursing homes or homes for the aged the way we knew them back then.

This is not at all intended to be a shot at those people who work in those facilities. I have the highest of respect for them. But the point is still that we as a government collectively have an obligation to make sure that these facilities are run properly and according to the law, for the best comfort of and attention to the people that live there. If you tell them that an inspector is coming or a compliance officer is coming, it's like a ministerial visit. They'll spruce up the place, paint it up, and this, that and the other thing.

Do inspections on a surprise basis. What's wrong with that? Why should anybody feel threatened by that? If they run a good operation, the operators would want to get the word out that they run one of the best homes in that area.

When did this whole notion of compliance officers start as opposed to inspectors?

**Mr Tuttle:** Let me just give a little bit of history. The inspection process for nursing homes started back in 1986. Up until around 1993-94 there were no inspections on a regular basis for any municipal or charitable home. They just weren't inspected. You might have a situation where the board of a municipal home would call the ministry and say, "You know what? We have a concern here," or we'd get a complaint, and we would go in. But there was no inspection process.

In long-term-care reform in 1993 through 1995 we gradually blended the funding, the inspection process and the standards so that everybody was treated uniformly. In other words, it was a level playing field.

Unlike the previous situation, if you lived in a municipal home or in a charitable home, you knew you were going to get the same kind of inspection you would have in a nursing home. That wasn't the case. Now it is.

**Mr Gerretsen:** You knew you were going to get inspections. From what you said earlier, the likelihood of an inspection taking place wasn't all that high anyway, so I don't know whether the standards weren't raised, necessarily. It sounds to me like they were lowered, very well due to the workloads that you people are involved in. I have no idea.

How do you prioritize the inspections in situations where you know a home has had problems in the past? How do you deal with that? What kind of an approach do you use?

1040

**Mr Tuttle:** Let me say that our starting assumption is the one you have, that the vast majority of operators are conscientious. They're in the business because they care about elderly people, they have parents themselves, they're good people, they're good operators. There are problems at times. Our assumption, from a compliance



adviser or inspection point of view, has to be that for all homes, whether they have no problems at all or a few problems or many problems, we have to do a detailed inspection process, a record-keeping process that assumes that at some point we might have to move up to a more serious level of enforcement or compliance.

As you may know, we have the ability to suspend admissions, if necessary, or apply other enforcement procedures, and we do so without hesitation when it is warranted.

**Mr Gerretsen:** How often have you done that in the last year?

**Mr Tuttle:** In the last year we've suspended admissions at four homes.

**Mr Gerretsen:** Out of 538?

**Mr Tuttle:** That's right, yes. In fact, it's all run through one lawyer, so you're kind of sure that the evidence, if you will, is consistent. It's an economic penalty, a serious penalty, and we don't take it lightly. There are very strict standards that have to be met before we would impose that, but we do keep detailed records. I know the auditor had mentioned senior management with respect to looking at these records. We do that because if we didn't do that—there's only one person who can sign a suspension order in the province and that's me. In order to do that, I have to have the lawyers advise me that all the standards have been met and have the program manager locally and the compliance adviser brief me on the situation so that we know exactly where we stand. So we do take that seriously and move where we have to.

**Mr Gerretsen:** How much time do I have left?

**The Vice-Chair:** Your timing in asking is impeccable. We're just slightly over 20 minutes. Ms Martel.

**Ms Shelley Martel:** Thank you for being here this morning. I want to begin in this way. Deputy, I looked through the comments that were in the notes regarding long-term-care beds and I don't see any mention of a scheme which the Ontario Long Term Care Association has been lobbying for, namely, the occupancy protection plan. That's a scheme that's going to see taxpayers pay for vacant beds in facilities—beds that are vacant primarily because there have been too many long-term-care beds opened, residents are leaving older facilities, they're not applying to older facilities, they're going into new ones, and the vacancies in the older homes are now increasing. So I'd like to know, is this scheme, the occupancy protection plan, now in effect?

**Mr Hassen:** Gail will probably be the best person to handle this. I think we can put some clarity on the question.

**Ms Gail Paech:** Gail Paech, assistant deputy minister, long-term-care redevelopment. When the 20,000 beds were announced, those beds had been coming into the system and there was a recognition that the beds were coming on and being built to meet the time frames. Right now, we have 10,000 beds built and within the next 18 or 20 months we will have the remaining 10,000 beds built. Recognizing the pace that the beds were coming on, we have put in place a system so that we can manage and

monitor the occupancy of every single bed in this province.

The occupancy protection policy that you are talking about is now called the sustainability program. That program is being announced very shortly and we will be able to ensure that all beds are monitored. If there are occupancy problems with facilities, we will then look to see what programs we can put in place, such as short-term-stay programs or respite programs, so that we will ensure that those beds are filled and that there are spaces and programs for the clients who need them.

If you look at the occupancy for the past two years across this province, it has been 96.8%. If you look at the occupancy as we have been tracking it since we put in this program in the summertime, it is now at 98.4%. That is with 10,000 beds, and our waiting lists are decreasing. So we are not experiencing severe occupancy decreases in our long-term-care facilities at this time.

**Ms Martel:** So why is the Ontario Long Term Care Association lobbying you to establish a plan that will have the public pay for vacant beds and facilities? That's what they've been lobbying you for. We met with them as recently as three weeks ago, and they confirmed that. It appears that what the ministry is going to do is drop the vacancy rate in facilities—I think it's 97% now—to something lower. At that lower portion, facilities will still be able to retain the funding they get from the ministry for beds where there is no one in them. The problem that was outlined to us was that the government has built too many beds, and now facilities are seeing their beds vacated because residents are going to newer facilities. Now the public is going to pay for vacant beds, because the government built too many. I'd also like to know if it's true that the cost is going to be about \$40 million, because that's the figure I was told. Taxpayers are going to pay for vacant beds. Does that make sense to you? That's the stupidest thing I've ever heard.

**Mr Ted Chudleigh (Halton):** I don't think that's going to happen.

**Ms Martel:** Maybe you should have a meeting with the long-term-care association.

**The Vice-Chair:** Excuse me. We'll give the respondent the opportunity to respond. You two, take it out in the hall if you want to talk about it. Sorry for the interruption.

**Ms Paech:** The sustainability program has been put in place to ensure that the beds that have been built, both the 57,000 old existing beds and the 10,000 new beds, will be there when the population needs them. It is the ministry's objective, and the programs are being put in place, that if there is decreased occupancy of the beds across the province, we have a series of programs and interventions we will put in place to fill those beds.

Presently, we know from pieces of research we have done that we have clients in hospitals who should more appropriately be placed in long-term-care facilities. Because we have had such high occupancy in our long-term-care facilities, they have waited in an acute-care facility. We will now try to expedite the moving of those



clients from our acute-care facilities to beds, when they become available. We are hoping that this program—

**Ms Martel:** But, Ms Paech, I'm trying to get at the issue of the taxpayers' paying for vacant beds in long-term-care facilities. I'm not talking about people in hospitals, right? The long-term-care association is lobbying you to give facilities money to pay for vacant beds. Is that correct?

**Ms Paech:** And I'm telling you that we are not paying for vacant beds.

**Ms Martel:** Well, here is a portion of the cabinet document. This is the Ministry of Health and Long-Term Care, long-term-care beds, B and C bed occupancy program: "The health and social services policy committee agreed to recommend to cabinet that the Ministry of Health and Long-Term Care implement a two-year long-term-care occupancy protection policy to help older facilities continue to operate during the temporary oversupply of long-term-care beds." It's going to apply to B and C facilities. It goes on to say that the recommended option was a time-limited two-year occupancy protection program that was supposed to start on January 1, 2000, with a sunset date of December 2003 and a six-month phase-out period. I am told that the estimated cost to do this is \$40 million. Is that correct?

**Mr Tuttle:** I just want to say in starting out that I heard you mention the long-term-care association. I want to stress that not only the long-term-care association but OANHSS, the association representing not-for-profit facilities, also was looking for some temporary safety net for a period. The government obviously couldn't wait until the population exploded to start building these long-term-care facilities. In no jurisdiction is it an exact science. There is a feeling, but not much evidence to date, that there may be a temporary oversupply. So universally, all the stakeholders—municipal, charitable and for-profit—were looking for some assurance that there would be a bit of a safety net if they were at a competitive disadvantage for a short time.

1050

**Ms Martel:** Let me back up. The long-term-care association told me that they told your government not to proceed with round 3 in the competitive process for new beds because they felt there would be an oversupply and they would run into this very problem; that is, people making a decision to go into new beds and leaving beds in existing facilities vacant. Is that true? Did the long-term-care association tell you not to proceed with a third round of new long-term-care beds, give you that recommendation?

**Ms Paech:** I do not know that they made a formal recommendation to the government and the ministry. I can tell you that in the third round there were 6,000 beds that were available, and through a competitive process there were over 20,000 beds asked for, for those 6,000 beds. So if there was not an interest or if there was a sense that we had too many beds, there was certainly a desire for these organizations to have the 6,000 beds.

**Ms Martel:** If I might, Ms Paech, on February 5 I met with the Ontario Long Term Care Association: Karen

Sullivan, executive director, and Fraser Wilson, who is the vice-president or chair of the board and runs some homes in Peterborough and other places. Mr Wilson said, and I'm quoting, "In the third round, the OLTCA recommended against these beds." All right? So you can check with him, because that's whom we met with.

Now we have a situation where we have too many beds on stream and we have facilities losing residents or potential residents because they are going to the newer facilities. The government now is going to put in place a plan where we, the taxpayers, pay for those beds. Now we're paying twice, because we have paid \$75,000, or will pay \$75,000, for the creation of new beds and for the redevelopment of the old beds, and now we're going to pay to keep beds in existing facilities vacant for a period of time until there are enough seniors available to go into the new beds. I am told that your plan covers a two-year period where we may end up doing that.

I want to know, is that true? Does this plan foresee a two-year period where we are going to pay for vacant beds? And how much are taxpayers going to pay for that?

**Mr Hassen:** Let me make a couple of comments and then I'll turn it to my staff again.

Gail Paech, who is the assistant deputy minister in this area, is working on a series of mitigating strategies to ensure that if there is a slight oversupply—and we can talk about what that means—those beds will be used effectively and efficiently within the system. That work is being done now; we're working on it now. We haven't made any recommendations to anyone yet on those, but we are working on that to ensure that we aren't in the position where we are inappropriately using the beds, which includes not having the beds open. The beds will open and be used appropriately, not necessarily in what you would call traditional long-term-care services. But that's our intent, to put forward something of that nature. The issue is that there are a lot of other people in hospitals right now who do need care of another sort. What we're intending to do is to use those beds for that purpose during that period.

**Ms Martel:** Deputy, the minute from the health and social services policy committee says they agreed to recommend to cabinet that the Ministry of Health and Long-Term Care would implement a two-year long-term-care occupancy policy: is it going to be a two-year policy?

**Ms Kardos Burton:** What's important is that, as I think Ms Paech said, we will be monitoring this policy.

A couple of points: first of all, the OLTCA and OANHSS both requested that we look at this. There was information from the financial sector.

To go to your point, Mr Gerretsen, this is a vulnerable group. All of us here are facing the kinds of parents who will need these facilities, and they need to be there. You cannot lose public confidence in a sector. So whether or not there is an oversupply—and as the deputy said, we can talk about that—we are monitoring the policy. We have mechanisms in place. A sustainability policy is not just something where the government has said, "Oh,



fine.” We have to make sure that all the policies are in place to encourage appropriate use of beds, to make sure that the right people are in those beds, that if there are other uses of beds, if there is space available, we could do that, whether they be from hospitals or elsewhere, whether they’re transitional uses etc. But I think the most important point here is that this policy will be monitored very, very, very closely.

**Ms Martel:** Let me just make a point about that. One of the things the auditor pointed out was—and I’m quoting from page 129—“We reviewed the financial information submitted by facilities to the ministry’s regional offices and found that there was insufficient information to determine whether funds within each envelope were used for their intended purposes. Most of the ministry’s regional financial analysts we surveyed agreed that the information was inadequate.”

You don’t have any kind of check and balance now to determine how money flows from the various envelopes; your own staff told the auditor’s staff that during this review. I have no confidence that the money you’re going to put in to protect these beds is going to be used for the intended purpose, which I’m told by the long-term-care facility is to maintain staff. That was their reasoning for pushing this policy.

I go back to my original questions, and I’m going to continue on this. These are not my documents; these are cabinet documents. They talk about a two-year policy. I want to know if that’s what has finally been agreed to at cabinet and if that’s what the ministry is working on. The second thing I want to know is the cost. You could not possibly have gone to cabinet to ask for this to be approved without some kind of estimate of how much it would cost taxpayers to implement.

**Ms Paech:** The program that was put forward to cabinet for their approval was for a two-year period of time, with a six-month phase-in. That program will be announced shortly. As we have indicated to you, the Ministry of Health will be monitoring this program. We have put the systems in place to monitor those programs. To date, we have seen a very small if not negligible decrease in the occupancy across this province. In fact, what has happened is that the waiting lists that have existed in this province for many years are now decreasing, so that people who have been waiting to get into long-term-care facilities are now having the access to these facilities and now will be provided the care they have been seeking for a long period of time.

In terms of the costs associated with this program, we do not anticipate that there will be any additional costs to the government for the provision of this program. Historically, if an organization did not have full occupancy at 97%, the funding in components of the funding formula then is remitted back to the Ministry of Health. Under this program, those remissions would not occur, but there is not an additional cost to the ministry at this point in time.

What I would reiterate is that it is our intention that if the beds are vacant and there is not a suitable long-term-

care client available, we will then make those beds available to families who are looking after their parents in their homes and who need respite care, for which we presently do not have sufficient opportunity or beds available. Programs such as that would then be available for us to implement and to provide enhanced support and care to clients who require it.

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**Ms Martel:** Ms Paech, you keep trying to tell me there’s not an over-supply problem. If that was the case, the sector wouldn’t be lobbying you for some kind of protection policy. Please. Why did they come forward? Because they recognize they have a problem and the problem is they don’t have people in their beds. Right? So they come to the ministry—and this came to the government a long time ago. The government was dealing with this last fall, so this is not a new, emerging problem. Right? They came forward telling you, “We’ve got a problem because we see people going to the new facilities.” No kidding. The cabinet minute talks about “temporary over-supply of long-term-care beds.” That’s not my word, that’s the cabinet document. All right? So there obviously is a problem and that’s why they’re lobbying you, and now you’re going to respond.

While you tell me that this doesn’t cost additional dollars, the fact of the matter is that if facilities now have less than a 97% vacancy rate, they would have to return the money back to the government. Now they’re going to keep it. So of course there is a cost. They’re going to keep the money and there’s not even a person in the bed.

So the other question is, where is that money going to go for those empty beds? I’m quite worried that the for-profit sector is going to be able to divert some of that money into their profit line, because they’ve got no one in the bed, they don’t have to pay for food costs, they don’t have to pay for accommodation, for laundry, for nursing care etc, and they’re still getting to keep that money. Can you guarantee this committee and the public that that money is just not going to go into straight profits in the for-profit institutions?

**Mr Tuttle:** I should explain that currently in a long-term-care facility we have an envelope system, as you’ve indicated.

**Ms Martel:** I know.

**Mr Tuttle:** I know you know that. It’s much more intrusive and much more detailed than you would find in most social programs. The care funding since the mid-1990s has been separated so that the care funding is one side, segregated from the accommodation funding on the other side. We do recover in the nursing and personal care fund.

When your occupancy drops, you lose all the resident revenue. Right now, about \$70 of revenue comes from government, about \$40 from the resident. That drops. So it’s not just a simple question of saying you don’t have those costs. There are a number of fixed costs in an organization in the accommodation envelope; they might be, say, 50% at least or more. You’re going to lose a



considerable amount of that when your occupancy drops. There will be an impact.

However, happily, to date the occupancy levels haven't been dropping. There's no doubt that people are worried about it. They are concerned that that's going to happen, but as Gail Paech said, the operators have subscribed. There was no difficulty issuing and getting the commitment to build the 20,000 beds. So although people are worried on the one hand, they're pretty confident on the other that we do need those beds and those beds will be filled. As Gail said, if there were vacant beds, they would be used for respite programs, other needs that will arise over the years.

**Ms Martel:** Mr Tuttle, if I might, it's true that the operators are going to lose the residents' portion but they're going to keep the government's portion. Earlier in our discussion, we figured it to be about \$62 that a long-term-care facility would receive from the government per resident per day. Is that correct, about \$62?

**Mr Tuttle:** On average; actually, right now the total per diem for an average facility is about \$110, and it's about \$70.

**The Vice-Chair:** One last question and then we'll move on.

**Ms Martel:** How much of that money are the facilities going to be able to keep? Of the \$70 that they're getting from the ministry under your plan, how much will they keep?

**Mr Tuttle:** Our plan hasn't been finalized yet—

**Ms Martel:** I know.

**Mr Tuttle:** —and all those details haven't gone out to this point. At this stage, I guess I'd have to go back to what Gail said. First of all, we've always funded empty beds to some extent. We've always had a policy where if you don't fill 3% of your beds, we're going to fill them anyway. So the principle has always been there; it's not new. Right now, we're not experiencing an occupancy drop, although we recognize the anxiety of the operators about that possibility.

**Mr Wayne Wettlaufer (Kitchener Centre):** I find it passing strange that the NDP critic, Ms Martel, would be talking about a slight vacancy rate, whereas when their government was in power, and the Liberals as well, we had a waiting list a mile long for patients who couldn't get into long-term-care facilities because your governments never built one long-term-care bed in the combined 10 years you were in government.

Deputy, in Kitchener, which is my riding, we've had 811 beds that are either built or completed—I believe 600 are completed—and there still is a waiting list. These are new long-term-care beds. I'm a little bit concerned about the existing D beds. I'm not sure of the number in Kitchener, but certainly in all the province we're supposed to be rebuilding, even by your own statement, 16,000 existing D beds by the end of 2006. I was just wondering what our progress is on the rebuilding of those 16,000 existing D beds. I wonder if you could give us some information on that.

**Mr Hassen:** We certainly are focused on both the new beds and the rebuilding of the D beds, and I have to say that at least from my perspective we are targeting and are on target for the ones we've submitted for the period up to 2006. Gail Paech is responsible for that area and has been tracking that, and I'll let her speak to the specifics of that question.

**Ms Paech:** Thank you, Deputy. The D bed program was initiated in 1998, with the objective to rebuild 16,000 beds. The D bed facilities are facilities that did not meet the 1972 standards. These are facilities that are very small, that have bedrooms where four to six people are in them and that do not have dining rooms in the patient areas. So the ministry undertook to rebuild these facilities. By the end of March we will have rebuilt 3,400 beds, we will have approximately 3,500 under tendering or construction and we will have another 5,600 that are going through the municipal approval program. So the D bed program certainly is moving ahead, and we'll meet the objectives of that by 2006—these facilities where we did have 16,000 patients, citizens of Ontario, residing in facilities that were deemed not to provide an environment that was suitable to the provision of the quality of care that the Ministry of Health wanted to provide. So the program is moving along at this point in time.

**Mr Wettlaufer:** The long-term-care beds reconstruction as well as the new long-term-care beds were based on the needs assessment that was established by the Health Services Restructuring Commission, and the Provincial Auditor stated in his report that the ministry allocated funding to build and redevelop long-term-care beds in regions of the province where the need for beds was greatest. I wonder if you could perhaps expand on the needs allocation process a little bit.

**Ms Paech:** In the mid-1990s a commission was struck, the hospital commission, to look at the requirements for delivery of acute care services. Through that process and review, the hospital commission indicated and recommended to the government that, based upon the demographics and the growth of the aging population in the province, there would be a need for approximately 16,000 to 17,000 beds by 2008.

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When they looked at the number of beds that existed within the province and at the population that was over the age of 75 and at the bed ratio, they said that Ontario had one of the lowest bed ratios in this country. They recommended that for every 1,000 people over the age of 75 there should be 100 beds available. So with that recommendation that was received by the Ministry of Health, an analysis was done looking at the bed ratio across the province, and in areas where there was a lower ratio, a decision was made that a certain number of beds would be allocated to that area to bring the bed ratio up to the desired goal of 100 beds per 1,000 people over the age of 75. So that was the process that was used.

When the government announced that 20,000 beds would be built, those statistics were then used. The areas that were identified to be underbedded were the areas



with the recipients to be considered for the allocation in terms of the RFPs that were issued by the Ministry of Health. There were three RFP processes; two were formal RFP processes, the third was a process similar to an RFP, and the 20,000 beds were allocated to meet the goal of 100 beds per population of 1,000 people over the age of 75.

**Mr Wettlaufer:** There have been a number of books written, a number of reports issued, on the changing demographics in Canada—not just in Ontario, of course; in Canada and the United States—talking about the aging population explosion that is going to take place certainly in the next decade, certainly in the next 20 years even more so. I wonder if you would be willing to comment on the cost, financial and moral, if we had continued the same policies insofar as long-term care that had been in existence prior to 1995.

**Mr Hassen:** Perhaps I can just introduce it and then have Gail talk to some of the specifics that might have landed here. It's clear that it was an unsustainable system and that we would find ourselves with elderly people significantly compromised, and I don't think that's anything anyone would have wanted. In particular, we would find the hospital system backed up because that's simply what would happen. These people would often be found back in the hospital and cared for because many of them could not be attended to at home by their families or there would be an extraordinary strain on the family beyond what we would have seen.

So from our point of view, having a balance of a number of beds per 1,000, it's extremely critical that we now monitor that and look at the benefits of properly balancing home care and other forms of care with long-term care in the three forms of beds we have in long-term care and with hospitalization, the backup in the hospitalization.

I can say to you, having worked in hospitals most of my life and with long-term-care facilities, that there are still significant issues out there, and I think you alluded to that a little bit in your own area. We do not yet have a good balance.

Gail Paech, the assistant deputy minister responsible, has done a lot of analysis of all the areas and is keeping track of this to see how many beds we need in each area to ensure that we are continuing down the line to accommodate these people. I'll maybe turn it to Gail for some comments as well.

**Ms Paech:** Thank you, Deputy Minister. Certainly, within the province prior to the building of the 20,000, we had very long waiting lists. As the beds have been built and as those facilities have been opened across the province, we are seeing a drop in the waiting list. We still have, though, 16,000 people on the waiting list for beds in our long-term-care facilities. We are monitoring that, and we certainly are seeing that, as facilities open, those facilities are filled very quickly and care is then being provided in appropriate environments for people who require 24-hour nursing support. So the facilities are

certainly meeting a need and a demand that exists in Ontario.

**Mr Hassen:** If I could just add another piece to this, I know that for some it is always difficult to understand the relationship of emergency with long-term care, but they're fundamentally linked as a system. Every time there is a person waiting in emergency, we can identify one or more people waiting in the hospital for a long-term-care bed. We know the emergency system will improve as we see this evolve over time. We're already seeing some indicators of that as we're bringing these beds up. I think the cost of trying to repair the system at emergency and pouring more money into emergency is extraordinarily frustrating, because it never is the right solution. We could pour endlessly into that, whereas as we build the beds and have them operational, it will begin to allow more beds to be available for emergency patients in the acute-care system, which is really what we want to do: get appropriate use of all our beds. So they're all tied together.

**Mr Raminder Gill (Bramalea-Gore-Malton-Springdale):** Thank you to the speakers for coming here this morning. I didn't think we'd see a day when we would say there are too many beds. I think that's great. Going back to the initial long-term-care beds announcement and the initial contracts being awarded, I know there were some hiccup problems. Can you perhaps explain what that was and how we are back on track?

**Ms Paech:** In 1998, the government announced that they would be taking the recommendations from the hospital restructuring commission and announced that 20,000 beds would be built across the province. Initially, the beds were to be built between 1998 and 2006. In 1999, there was an announcement that because of the need and the length of the waiting list, the completion of those beds being built would be by the end of 2004.

In 2000, the government asked for a report as to the progress of the beds. What we found was that with the first two RFPs that were initiated—and that was about 13,000 beds—we had not required that the individuals have land as part of their submission and response to the RFP. As we understood more about the complexities of the development of long-term-care facilities, it became evident to us that the time it takes an owner-operator, charitable group or municipal facility to find a suitable piece of land, have that land zoned for a long-term-care facility and have amendments to bylaws is anywhere from 12 to 18 months to two years. So we were experiencing a significant delay in these facilities coming on board because of not having asked for the requirement to have land.

In the third offering, which was the last offering, in 2000, it was a requirement to have land as part of the conditions in response to being eligible to be considered. What we have seen is that that has certainly expedited the whole development phase. Actually, we have some of the 2000 beds which were offered to the candidates who met the requirements and were successful. These facilities have been built faster than the facilities that were offered



in 1998 and 1999. But as I have indicated, as of March we will have over 10,000 beds, and we are tracking to have all the beds completed by the end of 2004.

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**Mr Gill:** In terms of quality assurance, how do you know what is the adequate quality of care in these, and how do you ensure that those facilities are meeting those quality standards?

**Mr Tuttle:** We have a comprehensive compliance management program. We have compliance advisors who are nurses. We have dietary inspectors, dietitians and environmental inspectors who are public health inspectors by background. Every single facility or home in the province gets a comprehensive annual investigation.

We also respond to complaints as quickly as possible, within 20 days. As the auditor noted, in most cases we are very good at getting back quickly. We certainly go back within the hour if we have a serious complaint. So we're in these places a lot: several thousand times a year.

We have a comprehensive book of standards. The most frequent knock we get from providers is that our standards manual is so big and there are so many criteria they have to meet—I think there are over 400—that it's pretty intrusive compared to a lot of jurisdictions. Again, we don't apologize for that. We want to be as thorough and comprehensive as possible.

In our annual reviews we look at all aspects of the home. We look at the whole universe. In other words, we're looking at everything: the physical structure, the care, how it's provided, the documentation. We look at each department. We do focused audits. A compliance adviser will go into a home and walk around and look at residents, and if there are certain risk indicators such as pressure ulcers or a person in restraints, they will then go and make sure that all the documentation is in place, that charting is done. They will look at the care for that person and then make an assessment of how the organization is doing overall, based on that sample. In addition, they will also do random audits of client charts while they are there.

So the focused audit is for a particular reason. The random audit is looking at a group of residents just as a sample to see how their care is, how their chart is. They will talk to residents, of course, and sometimes families if they're there.

Finally, after being there three to five days, all these types of inspectors produce a comprehensive report which must be posted by the home and be publicly available so that residents, families, the residents' council and advocacy groups can have access to that annual report. In fact, those annual reports are distributed to various groups such as Concerned Friends. So it's not just government that is looking at the organization; outside advocacy groups are doing pretty close scrutiny of the organization as well. It's publicly available.

I'm confident in saying that we have as good a long-term-care facility system as anywhere and that we have the means to ensure that is the case.

**Mr Gill:** Earlier today the auditor informed us, and I'm sure you're aware, of the risk assessment instrument that perhaps some of the facilities in the US are using. Where do we stand in terms of the implementation of that?

**Mr Tuttle:** The instrument that is being referred to is called the minimum data set. It's part of a resident assessment instrument which is really a suite of instruments that can be used with various groups of people. There's one for home care. There's one which in fact we're implementing as an assessment instrument. There's one for mental health. There is one for rehab. There is one for people in chronic care which is being used in our chronic care organizations. The instrument is the law in the United States. A skilled nursing facility in the United States has to use this instrument. They can't get Medicare and Medicaid funding if they don't use it.

We currently have an instrument that was developed in Canada called the Alberta classification system, which is a good instrument. It measures acuity. We look at the chart of every single resident each year. In other words, this year we will look at 64,000 charts and, on an individual basis, determine the care needs of all those residents using the Alberta system that we currently have.

We're actively considering moving to the minimum data set, not so much because there is anything terrible about the Alberta system but because the minimum data set is a more modern instrument and would provide us with some data that currently we don't have. So we're actively exploring that now. We have a staff person responsible for beginning to look at how we might implement the program.

**The Vice-Chair:** We'll move to the Liberal caucus, Mr Gerretsen.

**Mr Gerretsen:** I can now understand why, in one of the comments that was made, there were four times as many requests for these new beds than you could allocate. I guess it all has to do with the fact that if you're guaranteed \$10.53 per day for the capital costs and now you're also being guaranteed that the bed is going to be filled somehow with this new plan that I guess the cabinet is coming up with, heck, I would be applying as well if I were in the private sector. I think the fact that so many people apply for basically guaranteed funding is a pretty good deal.

I always find it interesting: in any discussions we've had with the government members or the ministers on this, I have seen that there are two main issues in dealing with long-term care. We have the issue of whether the number of new beds that are being created is adequate or not, and I think there's overall agreement now by most of the organizations and the outside experts that we're building an oversupply. The two associations are saying that; Peter Coyte, I think, came up with the idea about six or seven months ago; and I guess the cabinet document sort of recognizes the fact. Yes, there may be some people who are now in these interim long-term-care beds in hospitals that are being moved, but let's not forget that a lot of these people were in beds for acute care that had



been closed in hospitals to start off with. So I don't know whether we're just paying Peter to rob Paul etc.

When we talk about the reasonableness of the per diem funding, the answer always has been that we're building 20,000 new beds. Well, that doesn't help the 57,000 to 60,000 people who are currently in the existing long-term-care homes. You're very familiar with the PricewaterhouseCoopers report that your ministry paid for that indicated that out of the 10 jurisdictions studied, here in Ontario our people receive the least amount of nursing care and personal care, on average. That's the bottom line as far as I'm concerned, and it has nothing to do with the new beds, other than the fact that if there's an oversupply of new beds, we're taking money out of the system, I suppose, that could have been used in this particular area. There's certainly a relevancy there. There are only so many dollars around, and if you're starting to create new beds now that aren't really needed, that money could have been used to deal with the per diem situation.

But the first question I have for you, Deputy, and I have it right out of your statement here earlier this morning: you're saying that the future of long-term care facilities is affected by many factors, including the availability of home care, chronic care and other services. The question that I have of you is, would you not agree that most people who need care, elderly people, if given the choice and if provided with the necessary resources, would much rather stay in their own home-like environment, whether it's an apartment or home, than go into a nursing home? Would you not agree with that, sir?

**Mr Hassen:** I think there is no question that people do stay in their home in so far as possible. But there is a point where they can't.

**Mr Gerretsen:** Absolutely.

**Mr Hassen:** And then there is the point of what the cost is to maintain them in their home versus somewhere else.

**Mr Gerretsen:** Exactly. That's precisely my point. I'm so glad that you led into that. I think that we have put artificial limits on the home care that somebody can get in their own home, and thereby we're pushing people into these long-term-care facilities. If we had a more open-ended home care program, these people could probably stay in their own homes, which they prefer by and large—not everybody, but by and large they prefer to stay in their own homes—rather than going into nursing homes.

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Do you think it's time that we started doing away with some of these artificial limits that we have placed on our home care programs? You and I know that with respect to the changes that have taken place with the community care access funding that, yes, there's money available for post-acute care recovery, home care etc, but it certainly is drying up rapidly for people whom I would regard as being more in a chronic care kind of situation. If we made more resources available in that area, wouldn't that be much preferable to saying to a person, "Well, I'm

sorry, we can't give you home care. You'd better go into a nursing home"?

**Mr Hassen:** I understand your question. I believe there is more to it, in my view, not to say that there aren't some valid points you're making. I just would say to you, though, that there is, critically, a whole set of different issues here, and I'll let my colleagues speak, because I think they're just waiting to speak to this as well.

I've worked in other jurisdictions where the home care issue has been curtailed because it had become excessive as to what you can afford. Secondly, it is usually about people who don't belong in long-term-care facilities; it's for other reasons that this becomes the case. People have a view of entitlement, and I think you've got to decide what you're prepared to spend on entitlement. Long-term care is always a judgment of where there is a balance in cost and benefit to the individual who can no longer take care of themselves, but it's costing society significantly to keep them in their home because the people around them can't work or there are other issues related to that.

There are some future considerations coming on with the new reform agreement that has just occurred where we may be able to do some other things with employment insurance, where they're going to allow for some leave. We don't have the details on that. I think it's more for palliation. We certainly are going to encourage the development of those programs in concert on a province-wide basis.

Yet, I think we've got to really be sure that we understand that by just opening it, we'll suddenly not see those beds used. The standards we're using, this 100, are not far off what most provinces use. Some are different; I'm not saying they're all the same. But there's certainly a clarity that we do need these beds.

Finally, I just want to make a comment before I turn it over to Mary Kardos Burton. I'm not sure where you may have received this. There's a select situation where the odd nursing unit is being used in acute care for long-term-care beds, but it's an exception. In the kinds of situations we have out there, there are people in medical and surgical beds not able to be discharged to long-term-care facilities, which we must do. They're not closed, they are just—the word that gets used is "blocked," because you can't use them. So we really have to strengthen that. There are two areas here that I'm speaking of; one is that, and the second is the home care. It isn't simply that if we had more home care, the whole long-term-care situation would be—

**Mr Gerretsen:** Nobody suggested that, sir. But if there is more home care available—and I know of numerous situations—

**Mr Wettlaufer:** On a point of order, Chair.

**The Vice-Chair:** Just a moment. Let's stop the clock.

**Mr Wettlaufer:** I wonder if we could have some guidance from you on this. I thought we were dealing with the auditor's report. The auditor's report dealt only with the facilities, not necessarily with home care.

**The Vice-Chair:** Mr Wettlaufer, the questioner has the floor. The questioner has 20 minutes. The respondent



can either answer or not answer. I think it's more or less up to the questioner and the respondent, rather than you and I.

**Mr Wettlaufer:** I'm just asking for guidance.

**The Vice-Chair:** Yes.

**Mr Gerretsen:** Thank you very much, Mr Chair. I'm just taking a statement right out of the prepared statement that the deputy gave today. Personally and from talking to lots of knowledgeable people in this area, inside the ministry, in the field and CCACs and in hospitals and communities, I'm absolutely convinced that if we had a more flexible home care program, there would be a lot more people—not everybody—staying in home-like environments a lot longer, rather than pushing them into long-term-care facilities.

I've got a letter here that Minister Clement wrote to David Turnbull, the other minister. It doesn't have a date on it but I received it on October 9. I've quoted this before in the House. I find it absolutely amazing that he would say that the Ministry of Health "will undertake a communications campaign directed at ... highlighting the new home-like environment and improved comfort and amenities being offered by the new and redeveloped facilities."

We all know that the new facilities are much preferred to many of the older facilities. Why the ministry would be involved in that—is this just to help the people that have created the new beds etc? Aren't we much better off putting that kind of money and resources into the actual programs out there?

Anyway, I take great offence at that. If you give people the opportunity to stay in their own homes—not everybody—most of them will do that.

I'll just get away from that now and talk about, not the new beds, but I want to talk about the reasonableness of the per diem funding. Specifically, I will once again quote the auditor. This is right out of his report. He says on page 127, "The proportion of care provided by registered nurses in Ontario's long-term-care facilities to each resident per day was the lowest in comparison with other jurisdictions." This is from the Pricewaterhouse study. "Only one third of Ontario residents in long-term-care facilities who had restricted ranges of motion received any range-of-motion exercise." That's just to combat some of the earlier argument that people do get therapy and all that. At most it's one third.

This is the auditor's conclusion from doing his report: "Ontario residents in long-term-care facilities had the highest proportion of mental health disturbances and/or problems, of which 65% were handled either with restraints or anti-psychotic medication. Less than 6% had any intervention related to evaluation or 'talk therapies.'"

We've bled the existing facilities. We're not providing enough funding for them. You've seen that in your own funded study. What's the conclusion that the auditor came to? "We found no evidence to indicate that the ministry had addressed the results of this study." You've had the study. He found no evidence that you're dealing with that situation at all.

I know you're limited by your political masters as to what you can do. If they don't provide the funding for it, you can't do it. Again, I can accept that. But why we in Ontario should be dead last as far as providing per diem funding to the existing facilities—I don't want to talk about the 20,000 new beds; that's not the issue here. We're talking about the 50,000 to 60,000 people who live in those facilities right now.

If it weren't for the good care that many of them receive from the staff people, they'd be even worse off than they are. Why aren't you doing that? Is it as simple as that the government of the day is not ready to provide us with the necessary funding? If so, I dare you to say that.

**Ms Kardos Burton:** I think we are well aware of that study. Yes, the ministry did have a hand in terms of getting at those results. It pointed out a number of issues in terms of the nursing and personal care for the government. That's why the government did increase the funding by \$100 million in August 2002.

What I can add to that: when that funding was increased, it was the nursing and personal care that the money in fact had to go to. I think one of things the long-term-care sector and many of the community sectors do sometimes require improvement in is the kind of information they need, and information systems, in terms of putting forward the case, in terms of why. That's why, as Mr Tuttle referred to earlier, we are looking at a new resident classification system that will be able to say, "What is it that each resident needs?" and have proof.

We have put the money into nursing and personal care. We have done a recent survey, and we're going to do a more comprehensive assessment as to that money: the uses it has been put toward, the increased hours that people have gotten and the quality of care that has been improved as a result of that money.

So I think there was a recognition that those study results were not positive to Ontario. I think we did actually make a conscious effort to increase our nursing and personal care.

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**Mr Gerretsen:** But you know as well as I do that even with the \$100 million of new money, we're still last. That's why the association has taken up another campaign which they've started at every nursing home, addressed to every MPP. I'll just read it to you. They say, "Despite recent increases, Ontario still funds the lowest level of long-term care of any of the 11 other jurisdictions in the government-funded Level of Service Study."

"Ontario residents still get 45 minutes less"—and this is on average; I realize some people need more than others—"care daily than residents in Saskatchewan got in 1999"—four years ago. "This is simply not enough when: nine out of 10 require help to get dressed and eat; eight out of 10 require help to move around; and six out of 10 suffer from dementia and related disorders."

"Homes are unable to provide the programming recommended by the government's own compliance advisers."

"Government's long-term-care home construction and redevelopment programs will still leave 41,000 residents without access to new living and privacy standards." It's going to talk about the older homes here.

"A government commitment is needed now to increase operating funding by \$260 million, or \$10 per resident per day, in both 2003 and 2004....

"Government's only commitment is that residents will pay \$2 more...." You may recall the 15% increase, which I'm sure, as individuals, shocked each and every one of you. That we would ask people in their upper 80s and lower 90s to all of a sudden come up with an extra \$230 per month is absolutely deplorable by any government of any stripe to do that sort of thing. We're saying, "Yes, you've got to pay \$2 more."

Let me ask you this: are you prepared to recommend to your political masters that this \$260 million which is being asked for, and which undoubtedly cards will be coming in on, should be put into the next budget? You have input into the budgetary process. Are you prepared to make that kind of commitment or to give that kind of advice to the minister?

**Mr Tuttle:** I'd just like to go back to make a couple of points. In the last seven years, overall funding for long-term-care facilities has increased by 56%. That includes the expanding bed stock. If you take that out, the per diem has increased by 36% while resident acuity or complexity of care has only increased by 12.5%. So I think that's indicative of a willingness to address the funding issues.

The Mississippi study, as it's often called, was—

**Mr Gerretsen:** I prefer to call it the government study. They paid for it.

**Mr Tuttle:** —the government study—was a good study. It told us that we should take a look at the MDS system, which it's based on. Aside from the caveats the auditor pointed out about the study, I should say that many jurisdictions, unlike our own, don't separate out higher levels of care like the chronic care system. In our case, if you looked at our Alberta resident classification system, there are almost no residents in the highest category, G, and there's a very simple reason for that: we have a chronic care system which takes care of those folks. If we added the \$300 million-plus for chronic care into our per diem as many other jurisdictions do, you'd get an entirely different picture.

**Mr Gerretsen:** So you're challenging the study, then? You're saying the study is invalid?

**Mr Tuttle:** Yes, I'd have methodological concerns about the study, absolutely.

I'd also like to make the point that our per diem doesn't reflect our total investment in long-term-care facilities. We just include the part that's directly flowed to the facilities for care and accommodation. There are many funds, millions of dollars, on top of that which aren't rolled into the per diem.

So I think that although that level-of-service study was instructive and told us some good things, it really is open to debate.

**Mr Gerretsen:** Do you disagree with the auditor's conclusion that "We found no evidence to indicate that the ministry had addressed the results of this study"?

**Mr Tuttle:** Yes, I do. I disagree—

**Mr Gerretsen:** What have you done?

**Mr Tuttle:** —in the sense that the government just finished investing \$100 million in the nursing and personal care envelope.

In fact, another point to be made is that in 1993, for example, nursing and personal care represented about 48% of the total investment in the per diem. In 1995, it went to about 49% and now it's up to 54%. So the portion of funding devoted to care has been increased by the government as well as the total number of dollars.

**Mr Gerretsen:** Let's talk about the staffing requirements and the standards that you talked about earlier. He states in his report that "36 US states"—which I think is about three quarters of them—"have established staffing requirements or standards." As a matter of fact, I was interested in your comment earlier when you said you had this book with regulations. As I understand it, you've done away with many regulations with respect to bathing requirements and other things. We asked the minister about that during estimates here last September. The reason you've done away with them, that you no longer have those standards, was on the basis that the minimum standards become the maximum standards, so therefore we have no standards, and we basically leave it up to each operator and each facility to do that, which is very curious indeed.

The auditor states, "The ministry does not have any staffing requirements and does not track facility staff-to-resident ratios, the number of registered nursing hours per resident, or the mix of registered and non-registered nursing staff."

So you really have no idea as to what the staffing levels are in our different homes around the province. Why?

**Mr Tuttle:** We do in fact have an idea of the staffing. We do reconciliations on expenditures in nursing and personal care. However, aside from that, what has happened in Ontario is that we've moved to a system, as I said earlier, of looking at every single chart for all 64,000 residents, assessing their individual care needs and then providing funding on that basis.

**Mr Gerretsen:** How often do you do that?

**Mr Tuttle:** That's done annually.

**Mr Gerretsen:** Annually?

**Mr Tuttle:** Yes.

**Mr Gerretsen:** You look at the chart for every one of the 64,000 residents?

**Mr Tuttle:** Yes.

**Mr Gerretsen:** At the same time that you haven't got the inspectors there to inspect the facilities or to issue the licences etc, you want us to believe that your ministry goes in and looks at every one of the 64,000 personal charts on individuals?

**Mr Tuttle:** Yes. Let me explain how it's done and how it has been done since the system was introduced in



the early 1990s and came fully into play in 1996. Each year we contract with approximately 150 nurses. Those nurses go into every single facility and look at all the charts. Each year we produce a report based on that, which is publicly available.

For example, we know that over 80% of the people have incontinence problems. We learn that because we've gone in every year. We track the trends produced in the level-of-care report each year. That's how I can say with confidence that acuity has increased by 12.5% while funding has gone up that 36% I mentioned.

**Mr Gerretsen:** They look at the charts. Do they talk to the people?

**The Vice-Chair:** Thank you.

**Mr Tuttle:** It's not based on talking to residents. It's based on a review of charts that are prepared by the nurses and the facility staff.

**Mr Gerretsen:** Time goes so fast.

**The Vice-Chair:** It does go quickly, I know.

**Ms Martel:** I'd like to return to my previous line of questioning. Mr Tuttle, I heard you repeat again that we're not experiencing an occupancy drop right now. It begs the questions, then, of (a) why we are moving forward with such a plan and, more importantly, (b) why the ministry itself, in its proposal to cabinet, went forward with a document entitled Proposed Occupancy Protection Policy for Long-Term-Care Facilities that was retroactive to January 1, 2002. Your original proposal to fund vacancies was going to be retroactive to 2002. If there isn't a problem with vacancies, what was this document all about?

**Ms Paech:** A component of the program that has not yet been stated to you to explain why this program was brought into place was that you need to understand the financing of our long-term-care facilities.

Our facilities are financed through the financial community, and these organizations have mortgages that they must pay. The money that the organizations use usually comes from the accommodation envelope and also from the copay that clients pay.

The concern also was that if there were occupancy problems, these organization would not have the capacity to pay their mortgages, and what would happen within the province is that we could have a series of organizations not able to meet their pay requirements and we would then have facilities that go into bankruptcy and therefore not be available to provide care to clients and to the population of Ontario.

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The program you are referring to is not going to be retroactive to January 2002. The program will be announced and will come into being at that point in time. It is not a retroactive program.

The other point I would like to make is that the new facilities are not eligible for this program. That is a point that I believe may not have been clear. This program is only available to the B and C facilities and those D facilities that have a signed development agreement.

**Ms Martel:** I never suggested they were, because my understanding of the problem is that it's the existing facilities that are seeing vacancies as people move into the new beds. It goes back to my original problem of the government having built too many beds. If—part of the original document—organizations at that time were thinking they might not be able to pay their mortgages because they were going to have vacancies because their residents were leaving or didn't want to apply there because they wanted to go to the new beds, doesn't that tell us that the government was building and has built too many beds? You've got a problem of oversupply. If this many people are coming forward to you and you're actually considering something retroactive to 2002 so people don't lose their mortgages and go into bankruptcy, how did we get into a position of building so many beds that would result in this problem?

**Ms Paech:** The analysis has been done, looking at the demographics of the population of Ontario and looking at the requirement in bed ratios, that the number of beds we will require and will need to have is 57,000 plus 20,000 by 2006-07. As we know from our experience of developing and building these beds, it takes several years to build these beds. So there will be the requirement to have the number of beds, the 77,000, by 2006-07.

**Ms Martel:** Let me go back to the new vacancy rate. What will it be under this plan? It's 97% now, before you start getting your funding clawed back. What will it be under the new plan?

**Mr Tuttle:** The final details of the plan haven't been released to either association. We have been meeting with both associations, but one feature of the plan will be that there will be no replacement of copayment. I explained earlier the impact on that.

**Ms Martel:** I understand that.

**Mr Tuttle:** There will be no replacement of that. There will be retention of a certain portion of the per diem, and the lion's share of it, in fact virtually all of it, will go into the care envelopes as part of the program. Exact details—the application form is still being worked on; that isn't available yet. Again, I want to reiterate that it's not retroactive to 2002.

**Ms Martel:** I understand that. You told us before that the ministry gives about \$70 daily as a per diem. Is the full \$70 what the facility is going to be able to keep?

**Mr Tuttle:** The program doesn't contemplate its keeping the whole \$70. I should let you know that what the associations—and again I stress it's both of them; this is uniform—have said to us is, "Look, vacancy rates drop. We might have to lay people off. We want to keep the workers employed—the nurses who are there, the personal health aides—and avoid layoffs where that's possible." So that's the purpose of the funding. You're keeping it, and you keep it in envelopes where you're paying for care.

**Ms Martel:** And that's where I was heading next. Let me repeat what I said earlier about my very serious concern with this proposal. The auditor made it clear that the ministry does not have the financial information

available to determine if money in the various envelopes is used for its intended purposes. Now, you're trying to tell this committee that most of this money will go into nursing and personal care because the associations are telling you that is where it will go to retain staff. But the auditor has already told us that you have no guarantee that that's where the money goes.

What I want to know today is, how are you going to guarantee that that money does not go into profits for for-profit facilities that access this plan? How are you going to guarantee that?

**Mr Tuttle:** Let me go back again, and I'm sorry for having to harp on the envelope system. I do think the auditor mentioned that some of our financial analysts would like to get even more information than we already have, and I think that's quite possible. I understand their wanting more information. However, we do recoveries, and we do audits where we think—and by the way, we wouldn't be able to do this if we didn't know where the money was going. If we think money, not necessarily maliciously in any way, has been used in a way we think is contrary to our manual, we recover it. That's what we do. We have a line-by-line system. We're criticized by stakeholders because it's too intrusive. It's line by line; it segregates by envelopes. A lot of people would like to move to a global budget. We think our system is better, and it does segregate not only profit but the surplus that a charitable or municipal—

**Ms Martel:** Let me just read into the record what the auditor said:

"We reviewed the financial information submitted by facilities to the ministry's regional offices and found that there was insufficient information to determine whether funds within each envelope were used for their intended purposes. Most of the ministry's regional financial analysts we surveyed agreed that the information was inadequate.

"The majority of expenditures in the nursing and personal care funding envelope are for staff salaries, yet facilities are not required to submit staffing data, such as the number of employees per type (registered nurses, practical nurses and health care aides) or their respective salaries. Also, facilities do not routinely provide regional offices with a list of equipment and supplies purchased during the year under each funding envelope. Analysts advised us that, in several instances, facilities charged accommodation equipment and supplies as medical items to the nursing and personal care ... envelope, thus minimizing the amount of funding they may be required to return to the ministry."

So you already have a problem. You have a problem that you have folks now who are diverting funding to other envelopes or are making purchases under other envelopes and you're not picking that up.

My concern with the policy you are going to bring forward is that facilities will not use that money to retain staff but will instead find a way to use it as profit. I want to know from you what you are going to do to ensure that the money that facilities are allowed to retain under this

plan is not going to be used for profits but is going to be used for staff. What are you going to do to guarantee that?

**Mr Tuttle:** Again, at the risk of being redundant, and I'm sorry if I am, we segregate the envelopes, we do recoveries line by line on the nursing and personal care envelope. Every single expenditure in the nursing and personal care envelope relates to the quality of life and quality of care of the resident. You can't run a home with just equipment; you can't run a home with just staff. Every line in there has relevance to the quality of life of the residents, as does the accommodation envelope, because it is their home.

So we segregate those envelopes, we recover. If you ask me, "Could you get even more information?" then yes, absolutely. I think that may be the point our analysts were making, and they would always like to have more information so they can do their jobs as effectively as possible; I understand that.

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**Ms Martel:** If I listen to your answer, then I have to come to the conclusion that you cannot provide us that guarantee, and that makes my concern about this proposal even more serious. We are essentially having taxpayers pay twice. We are paying because we are contributing to the capital costs of not-for-profit and for-profit developers to build long-term-care beds, and the money for for-profit developers on the capital side is the first time ever in this province. Secondly, we are going to pay for vacant beds because we have an oversupply of new long-term-care beds. In essence, the taxpayers are paying twice because of the oversupply of beds.

Not only are we paying twice, but you can't guarantee to us or to residents and their families that the money that some of the existing facilities will keep because of their vacancies will actually be used to retain staff. That's my overwhelming concern. They are telling you that's what the money is going to be used for. You can't guarantee that's what is going to happen. What do you say to residents and their families about how this money is going to be used?

**Mr Tuttle:** I'm not sure I'm going to be able to give you an answer that will fully satisfy you. Again, we do reconciliations. I also want to stress that the operators, whether municipal, charitable or for-profit, all have the best interests of the resident at heart. They will use this money to retain employees, if necessary, to continue providing services to residents within our rules. The fact of the matter is that it is a safety net that we're contemplating. There is no evidence that occupancy has dropped so far. We don't necessarily even agree with the operators that we're going to see precipitous drops in occupancy. We think the funding may not in fact be fully used. We're just not seeing the evidence, and there are an awful lot of beds that have come on board.

**Ms Martel:** Let me back up, because I don't think I got this, and if I did, I apologize. What is the total estimated cost of this proposal over the two-year period?



**Mr Tuttle:** I don't think we know the final amount at this stage.

**Ms Martel:** OK. Give me your best estimate.

**Ms Kardos Burton:** It's very difficult to give an estimate, because the goal for this program would be that we wouldn't be spending any money and that we wouldn't come into this situation.

If I may come back to respond to your point, though, and I think we did say it, because of the issues that you have raised, this is why it is critical that we monitor this program. You can be assured that we will monitor this type of program. The final details, as both Paul and Gail have said, are being worked out, but one of the details in that is of course a monitoring mechanism, because we're very cognizant of what this could potentially raise.

**Ms Martel:** I want to go back to the cost again. You didn't go to cabinet without having some kind of cost attached to this. You just didn't. So what was the estimated cost you went to cabinet with to try to get approval for this policy?

**Mr Hassan:** Let me just say that we'll endeavour to see what we can find out for you. We do not have any numbers in front of us that would help you confirm that.

**Ms Martel:** The number that I was told was \$40 million, so I'd like to get a confirmation of whether or not that's true.

**Mr Hassan:** I just don't know.

**Ms Martel:** All right. This leads into my questions now about the \$100 million that was granted to facilities in 2002. My concern stems from what I've been harping on in terms of the ministry not knowing where some of this money is going.

The minister, when he announced this money on July 31, said very clearly that "the \$100 million in nursing funding adds an additional"—that's key, additional—"2,400 nurses and personal care workers to the long-term-care sector, or approximately 3.9 full-time-equivalent nursing and personal care staff per 100-bed facility." That's the press release.

Here's the letter that was sent to residents. It says, "This investment will add an additional 2,400 nurses and personal care workers to the long-term-care sector, or approximately 3.9 nursing and personal care staff for each 100-bed facility."

What I would like to know is, how many new nurses and personal care aides have now been hired with this \$100 million?

**Mr Tuttle:** We are about to do a comprehensive survey to determine exactly how the \$100 million has been spent. The average facility would have received \$6.33 on their per diem as a result of that \$100-million investment, but we're really not in a position to comment until we complete that comprehensive survey, which is going to be field-tested this week and will probably go out in the next 10 days.

**Ms Martel:** When did this money go out? August?

**Mr Tuttle:** Yes, last August. However, it seemed reasonable to wait to do the survey until people had had a chance to actually invest the money.

**Ms Martel:** Wait a minute. Did all the money flow in August?

**Mr Hassen:** On or about that time.

**Mr Tuttle:** Yes, on or about that time.

**Ms Martel:** OK. That's August. August, September, October, November, December, January, February—we're hitting the start of eight months that this money's been out the door. So you're telling this committee that as we sit here today, almost eight months after this money went out the door, you can't tell us how many new nurses and personal care aides have been hired in these facilities—eight months later?

**Mr Tuttle:** Let me say that when we announced the \$100 million, it does flow in monthly. We pay homes on or about the 22nd of each month. So it's not as if you're handing the whole amount at once. We know anecdotally, as do you and others, from people—for example, I know one chain has hired over 70 people, they tell me, to date. But right now it is anecdotal. We want to wait and get the facts through a comprehensive survey. I'd be only speculating right now. I know many organizations that have talked about the way they've spent the funds, but again it's anecdotal. I'd rather wait for the survey results.

**Ms Martel:** The homes would have known at the start of August the total amount of funding they were going to get, correct? Whether or not it was flowed on a monthly basis, they were advised at that time how much new money they were getting.

**Mr Tuttle:** Absolutely, and they would be advised what their specific amount would be.

**Ms Martel:** Right, OK. So let me give you some more anecdotal evidence then. This was actually a survey that was done by ONA to facilities where they obviously have nurses, which would be most of the facilities in the province. Here's how some of the money was spent, and these were in returns that came back from the facility operators to ONA. So I have to trust that they were correct.

County of Hastings—Hastings Centennial Manor: the new funding will be used to partially offset the current operating deficit for nursing and personal care.

Fairview Manor: the increased funding will be applied to the projected annual deficit of the nursing and personal care envelope in the amount of \$471,000. A full-time ward clerk position has been created.

St Joseph's Heritage: used the increased funding to reduce the deficit. No plans to increase staff.

Finlandia Hoivakoti, which is in Sudbury: used the increased funding to reduce the deficit.

Rainycrest, up in northwestern Ontario: funding is being used to cover their budget shortfall.

Don Mills Home for the Aged: half of the funding is being used to cover the current deficit.

It goes on and on, and this is information that was provided to ONA by the facility operators.

Your minister—well, not yours; Mr Newman, sorry—said very clearly to residents, in the press release and again in the Legislature when I questioned him about

this, that the money was going to be used and only going to be used to hire new nurses and personal care aides. It's clear that's not what's happening. How do you respond to that?

**Ms Kardos Burton:** In responding to that—and Paul Tuttle said we were doing a comprehensive survey, but I don't want to leave you with the impression that we did not do any follow-up on where the nursing and personal care money was spent. Our information is based on a telephone survey. Some of the facilities which you've raised—we also have information that does suggest they used the money on nursing and personal care too in particular. I'm not sure that we want to dispute ONA's information versus the information we have. I think what's important is that we in fact do this comprehensive survey on exactly where the money was spent and then provide that wherever.

**Ms Martel:** If I might, the minister was really clear: 2,400 new nurses and personal care aides, right? We have facilities here that are over 100 beds that haven't seen four new staff hired, haven't seen any new staff hired. How is it that the minister goes out and makes this kind of announcement to blunt the opposition for the 15% fee increase, because that's what it was all about, and we find ourselves in a position today that the ministry has seemingly no idea how many people have been hired, and we also are in a position where people are clearly using the money not to hire new staff? How are we in this position?

**Mr Tuttle:** Again, I'm not willing to speculate. The survey is going out. From the beginning we said we were going to survey in January or February. We are doing so now. Admittedly, the survey is going to be out the first week of March, but we're pretty close to what we've always said: that we would do that comprehensive survey of every single home in the province and make our assessment based on the facts we find.

**Ms Martel:** Let me ask—

**The Vice-Chair:** Last question and then we'll break for lunch.

**Ms Martel:** What direction were Ministry of Health staff in the regional offices given with respect to how the money could be spent? Were the regional staff clearly told from the top that money could be spent on deficits instead of on staff?

**Mr Tuttle:** As always, whenever the government makes any new investment the funding is provided according to the rules that exist in the manuals. So they wouldn't really need to be told anything specific other than it was \$100 million for nursing and personal care. Every single one of them knows exactly what that means and knows how it should be spent.

**Ms Martel:** And it doesn't mean new staff, does it?

**The Vice-Chair:** The clock usually catches up with us, and we are now going to break for lunch because I've determined that there are further questions and comments this afternoon.

I would ask that we return at 1 o'clock. That gives 45 minutes. I hope that's satisfactory. We're in recess until 1 o'clock.

*The committee recessed from 1211 to 1302.*

**The Vice-Chair:** We shall reconvene the standing committee on public accounts.

**Mr Gill:** Going back to quality assurance, again, adequacy of service—what is right, is it too much, is it too little—how do you establish that?

**Mr Tuttle:** Unlike some jurisdictions, we don't have a minimum standard that applies across the board to everybody. Quite frankly, in a lot of jurisdictions there is no one jurisdiction that arrives at the amount of funding the same way or the amount of services to be provided. As I said, in the last few years funding has certainly kept pace with acuity: 12.5% acuity, 36% funding increase. That's indicative of the level of services we might be providing.

However, we establish what's needed by going in and charting, and I know it amazes some people, every one of those 64,000 residents. We look at their charts, do a thorough assessment of their situation in every dimension—psychological, spiritual; we just pick up on the whole ball of wax. It's very thorough. We then look at the individual home's mix of residents, ascertain what level of funding would be required to take care of them, compare it to a provincial average and establish the funding. So it's really based on the individual, I would say.

If you were to ask me about standards, as I said, we have 30-odd standards and over 400 criteria that people are required to meet. So it's a pretty thorough system.

**Mr Gill:** Of these 64,000 charts that you look at, is there any kind of satisfaction factor as to how the consumers feel? Is there a feedback mechanism?

**Mr Tuttle:** Compliance advisers quite often will talk to residents or their families. That isn't an official part of the process, though, because you couldn't do that uniformly. You're not guaranteed of being able to talk to everybody and, quite frankly, and somewhat sadly, unlike a number of years ago, many of the residents now have some degree of dementia. Their needs are very complex. There are fewer people who are mobile in the homes than there used to be and you just couldn't converse with every resident to determine their level of satisfaction, as you might have at one time. Today's resident is much different from the 1990 resident.

**Mr Gill:** In terms of improving the D accommodation, or whatever the nomenclature is, how much does it cost to upgrade or renovate that accommodation?

**Ms Paech:** Within the province of Ontario, facilities are classified as A, B, C and D. A facilities are those facilities that meet the new 1998 design standards, B and C facilities are those that are above the 1972 standards and D facilities are those that did not meet the 1972 standards. When the D program was initially announced, it was only a development program, and the ministry informed all the operators who were responsible for operating a D facility that they would have to redevelop.

Upon further exploration, it became obvious that there needed to be a multi-component program for the D facilities, that many of the D facilities simply did not



have the funds to redevelop their facility fully. So long-term-care redevelopment developed a program that had a component of redevelopment. It had a component of retrofitting, which was a program that enabled a D facility to meet the majority of the 1998 standards, but along a sliding scale. An example would be that a room size in a 1998 facility, according to the new program standards, is 135 square feet. For the retrofit, recognizing that these facilities were in the main going to keep their exterior walls and the footprint of the facility, they had to adapt the space internal to the facility. So with the example of 135, we said that a D-facility bedroom would range from 130 to 135. We gave them an option for a range, but overall they had to meet the 1998 standards.

The third component of the D program was that organizations that were Ds and simply could not afford to do either the retrofit or the redevelopment would then have to commit a minimum of \$3,500 to upgrade their facility so that it did reach the 1972 standards. The plan was that we would also look at these facilities, look at their operations and make recommendations as to how they could become more efficient in their operations so that when and if there was ever another program that was announced by the government to look at the B and C facilities, those facilities would be in a position then to redevelop. The organizations that either redevelop or retrofit are eligible for up to the \$10.35.

**Mr Gill:** In terms of the newer accommodation, I think it came out this morning that perhaps the clients or the occupants are going toward the newer accommodation and some of the older accommodation is sitting vacant. Is that the case? Are we having difficulty filling them?

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**Ms Paech:** The ministry is tracking on a monthly basis the occupancy of all facilities. We are able to track the total number of people on waiting lists for facilities. We are able to track the movement of individuals who are presently in a facility who want to move to a new facility. We are able to identify how many people there are and where they are located. Overall, as I indicated this morning, we have seen very little fall or decrease in the level of occupancy of old facilities across the province. The occupancy as of December is 98.6%, and for the two previous years it was 98.8%, around that, so very little. As I indicated, the new facilities are filling up and are desirable to clients. Overall, there are some vacancies occurring in the Bs and Cs but, again, we have 16,000 people waiting to get into the facilities at this point in time.

**Mr Gill:** You said earlier that there are 64,000 charts that you are looking at or keep track of. Was that always the case or is this a later phenomenon?

**Mr Tuttle:** The level-of-care system, the Alberta classification system, was first introduced in a pilot in the early 1990s and came fully into use in 1996. Prior to the full introduction of the Alberta system, funding was not based at all on resident charts. It was a fixed amount in one system and on the municipal side it was almost

unlimited in the government-funded deficits in municipal homes, whereas the nursing home had a fixed per diem system. But it wasn't based on resident care needs. So that's a new phenomenon introduced in the 1990s.

**Mr Gill:** Thank you. I think Mr Chudleigh has a question.

**Mr Chudleigh:** Recently a study came out that shows that Ontario was spending less money than Saskatchewan, we had fewer hours of care—I think Mississippi was used as one of the examples of fewer hours of care—and the raw food costs at I think \$4.49 per day are significantly below other jurisdictions. Are you familiar with that study?

**Mr Tuttle:** Very familiar, yes.

**Mr Chudleigh:** Could you respond to it? The folks in some of the long-term-care units in my riding are very upset about that. Why should I not be upset about that?

**Mr Tuttle:** As I indicated this morning, one of the valuable pieces of the study for us was showing us that we might want to consider moving toward the classification system that's used in most other jurisdictions. From a methodological point of view, we still have the same kinds of arguments or caveats in addition to the ones provided by the auditor, in that many of those jurisdictions in Ontario integrate people who would be chronic care patients or complex continuing care patients into their general long-term-care population. We don't do that in Ontario, so the three-hundred-plus million dollars, I believe it is, that we spend for approximately 7,000 complex continuing care patients isn't considered part of our per diem. So it's a little bit of apples and oranges there.

In addition, we'll expect to spend about \$1.8 billion this year and, of that, there are millions and millions of dollars that we supply in special pots, a high-intensity needs fund, for example, to supplement the care for really complex, difficult residents. We don't count that as part of the per diem, we don't take credit for that, yet there are millions of dollars in these pots. An accreditation pot for facilities that are accredited by a national accreditation program is not included in the per diem.

So it's a little bit misleading. I'm not trying to say that the study isn't suggestive or there's nothing to be learned, but I don't think people should be alarmed or take it entirely at face value.

**Mr Chudleigh:** Is that true of the raw food costs as well? There are also the other accommodation costs they talk about, which include dietary and laundry services. Are dietary services part of the food allowance? Are they measured somehow differently in different places?

**Mr Tuttle:** The dietary staffing is provided through the other accommodation envelope. Raw food is a separate envelope. You have to spend a certain amount on raw food. Certainly, if you ask me, and I know I've talked to the associations, they will say, "We could use more money and we'd like more money in accommodation, nursing and personal care," or whatever. The government has invested a considerable amount of money in nursing and personal care.



Not only is the total investment relevant here; there is a shift that I talked about earlier. The nursing and personal care portion of the envelope has gradually increased to a bigger proportion of the total per diem. That's where the emphasis has gone on the care.

**Mr Chudleigh:** I think you said 54%.

**Mr Tuttle:** Yes. We go back and forth, and there are varying opinions on how much you should have in raw food or accommodation, but additional funding has been put in those envelopes as well.

**Mr Chudleigh:** In the B, C and D types of nursing homes there are now 16,000 beds that are going to be renovated, I believe, and 15,000-and-some-hundred beds are under renovation. Whereabouts does that stand? How many of those beds have been renovated? How many of them are currently being renovated? I understand that program is to be completed by 2006. Is that correct?

**Ms Paech:** The D bed program numbers total 16,000. In terms of the three components of the program redevelopment, to date we have 3,000 beds, and by the end of March we will have 3,400 beds that have been totally redeveloped.

If you look at the status in terms of redevelopment, retrofit and upgrade, there are various numbers. In terms of the redevelopment, we have about 3,000. We have only one organization that is going to retrofit. Originally there were four organizations that made the determination. Since the time they made the announcement that they would retrofit, in looking at their costs associated with retrofitting they have decided to redevelop.

We have a total of 11 organizations that are going to upgrade. Those upgrades must be completed by December 2003. So the 11 facilities that are upgrading are in the process now of upgrading.

**Mr Gerretsen:** It's difficult to know where to start. Today is the first time I've heard that you're now trashing the study you paid for some year and a half ago; you're saying that we're not comparing apples to apples. Yet nowhere, when this question was raised in the House or earlier in estimates, did the minister or anyone ever suggest that we weren't comparing apples to apples.

What bothers me is that you're throwing terms around, sir, that you know as well as I do have totally different meanings. Complex care patients are different from chronic care patients, and we closed 5,000 chronic care beds in the hospital system. Where did those people go? We know where they went. They went into the long-term-care sector.

If what you're saying is correct, if this study wasn't comparing apples to apples, there is nothing in the Pricewaterhouse study itself that indicates anything to that effect. Why are you bringing this up now? Are you just trying to confuse the issue?

**Mr Hassen:** If I may just begin to comment on chronic care and nursing homes, I worked at St Joe's in London several years ago when we closed the chronic care hospital there. It was not a chronic care hospital as you are envisioning it.

**Mr Gerretsen:** You don't know how I'm envisioning it. So let's hear what you're saying.

**Mr Hassen:** Let me then try to describe it to you. We assessed—

**Mr Gerretsen:** Did we close 5,000 chronic care beds in this province or not?

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**Mr Hassen:** If I just can speak to the example of those beds, when we did the evaluation of the people living in the chronic care beds and the people in our long-term-care facility at Marion Villa, they were virtually identical. So it had nothing to do with them being chronic; it had to do with where they were placed.

There are chronic patients, there's no question, and there are appropriate facilities for them, but they are different than nursing homes or homes for the aged, as has evolved over time.

**Mr Gerretsen:** Do you agree that the province closed 5,000 chronic care beds in the hospital system some time ago, within the last—

**Mr Hassen:** Let me turn to Paul—

**Mr Gerretsen:** Just answer the question. Did we close those beds or not?

**Mr Hassen:** Excuse me. I don't know the number, and I'm just trying to get the number verified.

*Interjections.*

**Mr Hassen:** I want to verify the number. I wasn't here during the period that you're alleging the closures, so I thought I would turn to my colleague and ask him the question. That was all I was doing.

**Mr Tuttle:** I'd have to get the exact number of beds that were closed. I don't have that at hand.

If I could clarify what I was saying, I wasn't in any way trying to trash the study. In fact, I said it was instructive and there is much to be learned in it. I have said before, talking about the authors of the study and with both associations, what kind of methodological quibbles I have with them, but in no way was I trying to trash the whole study. Really, to get down to that level of detail is something that was of interest to people in the associations and to myself.

**Mr Gerretsen:** There were conclusions reached in that study that state that we've spent less than anybody else in the other 11 jurisdictions on nursing and personal care. This is the first time that someone has suggested, that I'm aware of, in a public way, that basically the other jurisdictions weren't comparing the same things.

Could I just ask you another question? Two or three times I think the individual sitting beside you has mentioned that there are 16,000 people on the waiting list. Are those 16,000 individuals? As you well know, people can be on a waiting list for three different facilities. How many individuals are we talking about?

**Ms Paech:** When I refer to the number of 16,000 people waiting for admission to a long-term-care facility, I am referring to individuals. We have gone back and cleaned up the list. Previously what was counted was names for a facility, and so there was double counting.



We have since gone back and we now are only counting individuals.

**Mr Gerretsen:** OK. Thank you. That's a direct answer. I appreciate that. It's one of the few we've had here today.

Earlier this morning we talked about a comprehensive survey being done with respect to the extra \$100 million that is expended, supposedly on personal care and nursing care and food costs. What do you mean by "a comprehensive survey"? Do you not do an internal audit? The perception is being left out there, by both the associations and by the ministry, that we, more than any other jurisdiction, are divvying money up into four different categories—so much for food, so much for nursing and personal care etc. We can't, apparently, follow that up with respect to the \$100 million, even though the minister, in his announcement, made it quite clear that this was supposed to be for extra nursing care. What do you mean when you're talking about doing a comprehensive survey? What about an internal audit to see whether or not the individual organizations or homes are actually spending that money in the areas that it's being given for?

**Ms Kardos Burton:** As I think I referred to earlier this morning, we have done a telephone survey, but it doesn't include everyone. When we say "a comprehensive survey," we mean a paper survey where facilities will have to fill in information. It is much like an audit in terms of the kinds of information that we are requesting. We have some information. When the minister made his announcement, it was 2,400 nurses and personal care workers, and this morning we talked about the OANHSS survey, but it is also personal care workers in terms of the 2,400, or approximately 3.9 full-time-equivalent nursing. What we're looking for is exactly what those facilities spent their money on. So it will be a paper survey sent out to every facility and we will have the results tabulated, and it will be available for us so we will know exactly what the money is spent on.

**Mr Gerretsen:** But it's basically going to be that they're returned to you. You're not doing an internal audit as such, as to whether or not the money is actually being expended in the areas for which it was allocated.

**Ms Kardos Burton:** We probably wouldn't do an internal audit on all, but spot audits are not beyond the realm of possibility.

**Mr Gerretsen:** If you haven't done that with respect to the additional money, how can you give assurances to the people of Ontario that each individual facility or home in effect is spending the money in the areas that it's supposed to be allocated for? What kind of assurance can you give people? If you can't even do that for this minimal increase for a specific area, how can you do it province-wide for the entire system?

**Ms Kardos Burton:** I think we talked earlier about the kinds of information that we do get. This was a specific amount of money that was significant, and it was specifically stated for a certain purpose. There have been questions about whether in fact that amount of staff has

been hired, and that's why we're actually going to get that information. But I think we can give the people of Ontario assurances that the money that is being spent in the facilities is being spent on what it's there for. Mr Tuttle referred to the envelope system we have and the recoveries we do if the money isn't spent where it should be.

**Mr Gerretsen:** But you heard this morning, and there were all sorts of examples given, where different homes—and perhaps they had no other alternative—had spent a lot of that money covering past deficits and things like that. Once you hear that kind of information—and that information has been out there since last October, if I remember correctly seeing the press release from the non-profit association initially. If the association itself is saying, "Here are the organizations that have not used it for nursing or personal care; this is the name, and that's what they've used it for," would that not twig a little bit of a light within the ministry to say, "Hey, the organizations, the homes themselves, are saying it's not being expended for what it was meant for. Maybe we should check with them"?

**Ms Kardos Burton:** I can assure you that accountability is very important to the ministry. We do have information that's reported to us. We have reporting mechanisms. We have service agreements. The money is to be spent on what it's intended for, and we will follow up with consequences if it is not. So we do have a system in place. Perhaps there could be improvement, but we certainly have a mechanism in place to ensure that money is being spent.

**Mr Gerretsen:** It just seems to me that since the money flowed out last August or September and you're only now doing what you call a "comprehensive survey," it doesn't give anybody any assurances that the money was actually spent in that area.

Talking about the new long-term-care beds, in the auditor's report on page 135 he makes a recommendation. He states, "To help demonstrate that awards for new long-term-care beds are based on a fair and open process that is consistently and objectively applied, the ministry should ensure that the justification for all decisions is properly documented." You responded to that as a ministry by saying, "The ministry will do its best to ensure proper documentation of all decisions." Is that documentation available to the public? If so, are you prepared to table it? What documentation exists?

**Ms Paech:** The documentation that was looked at was the material that was submitted for the response to the two RFPs and also to the allocation in process. In the year 2000, the ministry established the long-term-care redevelopment program. The project was responsible for the 2000 allocation process.

The process that was used prior to that with the two RFPs was a decentralized process where regional staff were involved in it and there were committees. We, as a redevelopment project, attempted to get all of that information, consolidate that information and store it within the archives of the redevelopment project. On review,



there were some files that were not complete files, and we have attempted to gain those materials. Certainly for the 2000 process, all of the documentation is there and is in the files for them.

I'm going to look to the deputy—

**Mr Gerretsen:** The question is, is it available to the public?

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**Ms Paech:** I'm going to look to the deputy, because I'm out of my league here in terms of the government's position on this one.

**Mr Hassen:** Obviously we don't have that information with us. We'll undertake to look at what is possible to be made available to you and to the public.

**Mr Gerretsen:** Well, I wasn't asking for any specific information. I was asking whether or not the information you have is available to the public.

**Mr Hassen:** I just have to look at the rules for making certain information available. I'll follow whatever is required according to the rules of privilege and confidentiality. If it's not confidential information, it's obviously available.

**Mr Gerretsen:** And you will make it available to the committee, then?

**Mr Hassen:** If it's appropriate, as I said, I will.

**Mr Gerretsen:** I'm hereby requesting that you make such information that you have available.

**Mr Hassen:** I'll undertake to see what I can provide you, based on that request.

**Mr Gerretsen:** We talked earlier this morning about licensing, and you indicated that only the nursing home sector has to be licensed. That's as a result of long-standing history. Has the ministry given any thought to licensing the municipal and charitable homes?

**Mr Tuttle:** Part of some of the policy work we're undertaking now with respect to our compliance review is to see if there's a way of establishing some kind of uniform approval process. That doesn't necessarily mean licensing; it may mean something else that applies to all organizations. But yes, it's under consideration right now.

**Mr Gerretsen:** We talked also about the complaints mechanism, and I think reference has been made to it a number of times, that all complaints are to be dealt with within 20 days, yet the auditor's report clearly indicates that this was not the situation in all cases. What have you done to ensure that all complaints in effect are being investigated within 20 days? What mechanism have you set in place? I think 20 days is a pretty long period of time, particularly if it's a serious complaint that affects the health and welfare of the residents or a resident, but be that as it may, what have you done to make sure that all complaints are actually dealt with within that 20-day period?

**Mr Tuttle:** The auditor, if I remember correctly, said that 83% were being responded to in 20 days. The way we evaluate the timeliness of our response is through a system called FMIS, financial management information system. With a complaint, sometimes the information

goes into that system very promptly, and at other times—and a complaint isn't considered resolved until the last piece of data is entered in. Sometimes it happens that it takes more than 20 days to do that. So what we're looking at is being more timely in our reporting standards and reinforcing with staff the importance of getting their notes written up quickly because, quite frankly, some of the lag is due simply to getting in and responding to the complaint but then not having the time to write it up till perhaps 25 days rather than 20.

**Mr Gerretsen:** Well, 83% may sound like a good percentage, but it still basically means that more than one in seven complaints are not dealt with in the period of time. From your answer there, I take it that you have set up no specific new methodology as to how to deal with that so you can actually deal with 100% of the complaints within that period of time.

**Mr Tuttle:** I'm sorry. There are two ways that we are going at that. One is through the compliance review; we're looking at ways that we might improve our response time. We're always looking to improve—there's no question about that—and we're considering various methods for doing so. But one of the immediate things we're working on is just making sure we get credit where credit is due for our timely response by entering it and closing the file in time, because if you don't enter it until after 20 days, it appears that the complaint hasn't been resolved in that time. So we're working on the administrative processes now and we will have recommendations on the rest of it.

**Mr Gerretsen:** Are you understaffed?

**Mr Tuttle:** If you're asking me if long-term-care facilities branch, like most departments—if you said, "Could you use more staff?" everybody could, yes. We're not understaffed, though.

**Mr Gerretsen:** OK. You talked about the FMIS, the facility monitoring information system, a little bit earlier. Have there been any plans by the ministry to include situations where a disease is spreading within a particular home for a certain period of time? From reading the auditor's report, that is not regarded as a FMIS matter at this time. Am I right in that? Are you going to include contagious diseases as part of that mechanism?

**Ms Kardos Burton:** I'd like to talk about the outbreak of diseases. The way that the report is written, they do certainly indicate that we could improve our documentation in terms of the outbreaks of diseases; there's no question about that. But one of the things I want to assure the committee: when there is an outbreak in a nursing home, we put all hands on deck. We have protocols in place in terms of the ministry; staff are there Friday night, Saturday, Sunday, whatever; the regional offices are available, because those are very serious. We're dealing with a population that is of course particularly vulnerable. We could improve our documentation, but in terms of the protocols that are in place for outbreaks of diseases, I can assure you that they're there.

**Mr Gerretsen:** OK. How much time do I have left?

**The Vice-Chair:** You have two minutes.



**Mr Gerretsen:** The other issue I'd like to get to is this new measurement issue that has been raised by the government members as well and that the auditor makes reference to: the resident assessment instrument. The auditor seems to be of the opinion that you—I'm just trying to find the exact location here, but I think it's at page 138—do not have a commitment to go to that kind of instrument assessment mechanism. I wonder why, when it seems to be so widely used elsewhere. Could you just give us some comments on that, please.

**Ms Kardos Burton:** I think Mr Tuttle referred earlier to the fact that we use the Alberta system. We are looking at this. In terms of not a commitment, like anything else, implementing something like this throughout the number of facilities that we have in Ontario does cost money. We are committed to reviewing it. We have a dedicated resource team looking at it. We are very well aware of the methods and how it is used, as Mr Tuttle mentioned, in mental health, in home care. We believe that it will help us identify the needs of all residents of Ontario but, like anything else, we need to look at the financing and make sure. Once you enter into it, you want to have it on a system-wide basis. So we are certainly looking into it, we are committed to that, but we just have to ensure that the financing is there to take us over the long haul.

**Mr Gerretsen:** OK, but the auditor states that in October 2000 a review committee was established by your ministry to determine whether or not a pilot should be done using this measurement, and your committee recommended that the ministry develop a funding methodology based on the MDS and explore a partnership with the home care sector to develop a common assessment tool. He concludes by saying, "However, at the time of our audit, no progress had been made in implementing a pilot project." Are we any closer now?

**Ms Kardos Burton:** I believe we are. We do have resources assigned to it and we certainly are looking at every way possible to make sure. We've also had some advancements in mental health and home care, so that other parts of the system are now using it. That advances our cause in terms of this, so I do believe we are making progress.

**Ms Martel:** Mr Tuttle, I just want to return to my previous line of questions. When we ended, you had just told the committee that the regional health employees would have been aware of what could be funded with \$100 million. Let me ask this question: is it clear, then, that the \$100 million could be used and can be used to reduce operating deficits?

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**Mr Tuttle:** The rules laid out in the financial manual are very specific about the kinds of expenditures that are eligible in nursing and personal care, other accommodation, programming and support services and raw food. Facilities not only have to spend according to those lines, but they have to spend the lines in the envelope where it is appropriate. That's what I meant by "they would be aware."

**Ms Martel:** I don't think you answered my question. Is it clear that a portion of the \$100 million could be used by facilities to deal with their operating deficits—yes or no?

**Mr Tuttle:** If we understand deficits as I do, then the answer would be no. There isn't a line or an eligible expenditure for deficits in the manual, in other words. So the money that is transferred, the actual dollar that is transferred, in other words, is going to be spent according to the rules of our manual, and if it's not, there will be consequences.

**Ms Martel:** So you're telling me, then, that there are going to be consequences for the list I just read out to you, where those facilities indeed used money for operating deficits?

**Mr Tuttle:** I'm not in a position, respectfully, to determine what I'm going to do about a specific facility. As Ms Kardos Burton said, we are going to do a comprehensive survey. We will look at the facts and then base our decisions on those facts.

**Ms Martel:** Could facilities use this money to deal with WSIB premiums?

**Mr Tuttle:** Organizations have to pay WSIB premiums, yes.

**Ms Martel:** Could the new money, the \$100 million, be used to pay WSIB premiums?

**Mr Tuttle:** If we're going to go down to that level of detail, I'm going to have to get back to you because I don't have the finance manual with me. But again, I'd say that organizations need to pay WSIB premiums and it would be a question of the allocation.

**Ms Martel:** I want to know specifically if the \$100 million could have been used for that purpose. Then, when you're looking at that, I want to know if the \$100 million of new funding that was promised for nurses and personal care aides could also have been used to fund long-term-care disability premiums. Do you know that?

**Mr Tuttle:** I'd want to look at our manual.

**Ms Martel:** All right. And what if other staff were hired, other than nurses and personal care workers? Was that allowed under the new \$100 million?

**Mr Tuttle:** Yes. Certain supporting clerical positions are allowed in the nursing and personal care envelope, but they are directly related to the purposes outlined in the envelope.

**Ms Martel:** What kinds of clerical positions?

**Mr Tuttle:** A clerical position that would support nursing functions. But again, I'm reluctant to go much further into the details of the financing without the manual here. I'll have to get back to you on that.

**Ms Martel:** OK. I have another one. You and Ms Paech had a meeting October 30 with Barb Wahl of ONA and some other ONA representatives. ONA requested the meeting because they wanted to bring to your attention examples of where municipal homes for the aged were sending some of that new \$100 million back to municipalities. I'm under the understanding that they provided you with concrete examples of where that was happening. You, in turn, as a result of that meeting, expressed



surprise. You had discovered that the long-term-care association, the not-for-profit association, was in fact supportive of that happening and that you were going to have a meeting with both that association and municipalities of Ontario to determine if indeed that was going on. Did you meet with those two organizations to determine if that was going on?

**Mr Tuttle:** I've met with those organizations, but only to say that we are going to do a comprehensive survey, and we gave them an opportunity to review the survey we were going to do. Again, we don't know the facts of the matter. We've heard anecdotes, we've had opinions, but we don't know the facts at this point.

**Ms Martel:** But you were given a list by ONA, correct? You were given examples.

**Mr Tuttle:** Yes, Ms Wahl gave examples.

**Ms Martel:** And if Ms Wahl, president of ONA, gave you some examples where she was clear that homes for the aged were sending money back to municipalities, this new \$100 million, don't you think the ministry had an obligation to check into those examples to clarify whether or not that had happened?

**Mr Tuttle:** The best way for us to respond to those allegations is with a comprehensive survey.

**Ms Martel:** Oh, you're kidding. Come on, Mr Tuttle. The president of ONA gives you examples, and you don't think this is serious enough that you would go and find out immediately if that's what happened?

**Mr Tuttle:** The examples she gave me—again, I don't have my notes from that meeting with me, but at that meeting nothing was said to me that was startling enough for me to want to go out and do an immediate audit.

**Ms Martel:** OK, Mr Tuttle, tell me: do the rules in the financial manual allow for money like this to be used to reimburse municipalities? Is that an expenditure that would have been allowable with this money?

**Mr Tuttle:** There is no provision in our manual, no line that says, "Reimbursement for Municipalities." There is no such thing.

I really am at a disadvantage, because we need to know more facts before we respond.

**Ms Martel:** If there's no line in your manual, what's your normal policy with respect to this matter?

**Mr Tuttle:** Well, the matter hasn't come to my attention before, that we've ascertained. I can tell you that any time we establish that there have been inappropriate expenditures, we take action. We either recover immediately, send in auditors, we could call in our internal audit branch; we have a number of efforts we can use.

**Ms Martel:** So why didn't you do any of that in these cases?

**Mr Tuttle:** In these cases, based on what I was told in that particular meeting, I didn't believe it was warranted. In cases where it is warranted, we will do so.

**Ms Martel:** So when does it warrant further investigation, in your opinion?

**Mr Tuttle:** If we're still talking about the \$100 million, again, I don't want to—I can't make a response to

anecdotes. I can't make a response to opinions or assertions; I need to find out the facts.

**Ms Martel:** And I'm trying to get out why you didn't get at the facts. The president of the Ontario Nurses' Association—pretty significant, in my humble opinion—requests a meeting with you because they want to bring to your attention examples where homes for the aged have used some of this new \$100 million to send money back to municipalities instead of hiring new staff like the minister promised. You didn't think that warranted some further investigation immediately?

**Mr Tuttle:** I don't recall the statement being made in exactly that way. And I have to tell you again, with all due respect, that when something comes to my attention regarding anything that impacts the finances or care of long-term-care residents, I do tend to act immediately.

**Ms Martel:** Do you meet regularly with Barb Wahl?

**Mr Tuttle:** No.

**Ms Martel:** So let me get back to this again, just to reinforce my point: you don't regularly meet with her, she requests a meeting with you to bring this to your attention, she gives you a list of examples and you don't follow up immediately? I'm astonished at that; I really am.

Ms Paech, can you help me?

**Ms Paech:** I also was at that meeting. That meeting was requested by the Ontario Nurses' Association, and Barbara Wahl, the president, was there. The purpose of that meeting was not solely focused on the \$100 million. In fact, there was discussion—the reason I was there was because it was about the new facilities, about the project we have, Turning on the Lights, which is looking at the resourcing of the new facilities and some of the new initiatives we are undertaking to look at encouraging health care providers to work within those facilities, not only the new facilities but all facilities.

It was during the course of that meeting that Barbara Wahl indicated that they had done a small study, a small survey. She did not go into the details of how the study was conducted, nor did she indicate it was a comprehensive study. She gave us examples, and at that time we did express that we were surprised to hear this and that we would be following it up. As Mr Tuttle has indicated, the ministry's response to that is that we are, through negotiations and discussions then with the Ontario Long Term Care Association and OANHSS—and had discussions about how these monies were being spent, and upon further discussion, it was decided that the ministry would conduct a survey. That survey has been developed, it is being tested and it will be released shortly, so that we can understand comprehensively, using a methodology that the ministry believes will address those needs, and will be administered to the field.

**Ms Martel:** I'm sorry; I find that unacceptable. She gave you some examples. You should have followed up on that. You should have followed up immediately. We are here five months after this meeting, and you folks are telling us now that you're going to do some kind of



comprehensive study to figure out how this money was spent.

Do you think it's appropriate that money that was supposed to go to personal care aides and nurses could be sent back to municipalities? Do you think that's an appropriate use of this money, yes or no?

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**Mr Tuttle:** I had no evidence or indication at that meeting or otherwise that any of the money was used for any purpose other than what was intended. I can't talk to you about all the other possible sources of revenue they have.

**Ms Martel:** No, no—please, Mr Tuttle. Did Ms Wahl tell you that she was aware of homes for the aged that were sending some of that new money back to municipalities; yes or no?

**Mr Tuttle:** I don't remember her using those exact words, but I remember the point being made, and she did give us some examples of things she believed were happening. Again, this was a minor part of the meeting and not why she asked for the meeting in the first place.

**Ms Martel:** And you didn't think it was serious enough to follow up. So you can't tell us today whether you have any idea if a number of homes for the aged in the province actually did this? You are not in a position today to tell us that, eight months after this funding flowed?

**Mr Tuttle:** Again, the funding flowed on a monthly basis.

**Ms Martel:** They knew what their allocation was.

**Mr Tuttle:** They knew what their allocation was. They know how they're supposed to fund their allocation, and I can't imagine a municipality and would indeed be surprised that a municipality didn't use the money transferred to them from government for the purposes intended—the government money.

**Ms Martel:** But you didn't check to be sure, which is a serious problem. I'm astonished at that.

Let me ask: if you finally do this comprehensive survey and find that municipalities did that, is that an expense you're going to allow? Is that a transfer you're going to allow?

**Mr Tuttle:** I can only answer in the general sense that if we found an expenditure that was made that wasn't in accordance with the rules in our manual, then we would recover it. It would be quite clear.

**Ms Martel:** Is this an expense that is allowable under your manual for this money? Is this the intended purpose of this money? Does it comply with your rules?

**Mr Tuttle:** Our rules are quite clear. Again, I don't have any evidence—facts—that anybody has spent money in any way other than has been intended.

**Ms Martel:** I don't think you want the facts. If you really were interested in finding out about this, you would have made those calls immediately, it seems to me. Right? And you didn't.

Let me go back to this: if you do your study and find out that 2,400 new nurses and personal care aides were in fact not hired, then what happens?

**Ms Kardos Burton:** When we do our study, not if we do our study, and find that the intentions are not met, then we will certainly explore the reasons why—I think that's fair in any information that comes forward—and if the reasons are not acceptable or if they are in violation of policy, then we will take action.

**Ms Martel:** Can you tell me what the circumstances are for a facility if the intentions are not met? What's a ministry definition of that? What does that mean?

**Ms Kardos Burton:** It depends on what the circumstances are, whether it's recording or financial or care. There are lots of actions that are taken. We talked this morning about if concerns are expressed and a facility is not caring for the residents, then that can go from a letter to a meeting to increased staff to a takeover by another facility.

**Ms Martel:** I'm looking for the criteria. If you go out and find that people use this for operating deficits, is that going to conform to the intent of this money; yes or no?

**Ms Kardos Burton:** That's really difficult to answer. We need to be clear on the intentions, whether or not they met it. If it didn't, then I think there are a number of actions that could be taken. It depends on the circumstances. Like everything else, you look at whether they knew or ought to have known. It could result in a letter, or it could result in the money coming back, whatever. It's hard to say without specifics, but certainly some sort of graduated sanctions would be in place.

**Ms Martel:** Could you table for this committee the list of the ministry's intentions or expectations—however you want to define it—of what facilities should use this money for? Can you table that for this committee?

**Ms Kardos Burton:** I think we can do that.

**Ms Martel:** That would be great. And while you do that, I would like you to deal with the very specific issue of homes for the aged sending some of that new money back to municipalities. I want to know if the ministry would have intended that \$100 million to be used for that kind of purpose.

**Ms Kardos Burton:** We will respond to that.

**Ms Martel:** Are you going to be tabling for the public the results of your comprehensive review?

**Ms Kardos Burton:** I don't have an answer for you at this point. We need to look at that and review that further.

**Ms Martel:** Would there be any reason under FOI that it shouldn't or couldn't be tabled publicly?

**Ms Kardos Burton:** We'd need to examine that information. We'd just need to examine it. We haven't made a decision on that. That's not a yes or a no; there is no decision on that.

**Ms Martel:** We've gone at this a number of ways. I remain extremely concerned that a minister on the one hand, frankly, to try to blunt public opposition to the rate increase, clearly promised residents and their families that this money was going to be used to hire more nurses and personal care aides: 2,400 new ones; four new ones for each 100-bed facility.

In a question that I raised with him on October 16, where I pointed out three for-profit facilities in the Durham region that used their money for different purposes other than hiring of staff, he said, "In fact, all those dollars are going toward more nursing and personal care in the province." I'm telling you, that's not what's happening. Someone misled someone, and it's a real shame, because residents and their families were essentially told that as a result of that rate increase they were going to get better-quality care. Here we are, eight months later, and you can't even tell us who was hired, so you certainly can't tell us that people are getting better care, and I think that's shameful.

This leads to my next set of questions that has to do with developing staffing standards. Mr Tuttle, I've heard you twice now, in questions about how we assure quality care or quality assurance—how can we guarantee that—refer to the case management index. The case management index certainly determines residents' needs, but the case management index doesn't mean that long-term-care facilities are actually meeting those needs. Those are two different things, and that's the issue I'm most concerned about. Are the facilities actually meeting the residents' needs? From what the auditor said, you've got no way of knowing that because you have no staffing standards in place to even determine what the level of care is and who is providing it.

I go back to the PricewaterhouseCoopers study because I believe it very clearly showed what happens when you get rid of minimum standards. Before 1996, you did have to have an RN on full-time in your facility, 24 hours a day; that's gone, courtesy of this government. Individual residents were guaranteed 2.25 hours of direct nursing care or personal care per resident per day; that's gone. We have a report in 2001 that shows that Ontario seniors are dead last, at the bottom of the heap in terms of all indicators of quality care.

The auditor made it very clear on page 128 in his recommendations that the ministry should "develop appropriate staffing standards for long-term-care facilities." When are you going to implement staffing standards for long-term-care facilities?

**Mr Tuttle:** It is quite true that at one time there was a requirement for 2.25 hours. It was eliminated when we moved to the Alberta level of care system that does look at individual needs.

What we take from the auditor's recommendation, again, is that we need to pursue better systems. We are taking a serious look at the minimum data set which would provide us much more information about what's actually going on in long-term-care facilities. We're moving forward on that. There is no plan at the present time to reintroduce a minimum number of staffing hours.

**Ms Martel:** Let me back up. You said, "We eliminated the minimum number of staffing hours when we moved to the Alberta model." But if I understand you correctly, you said it was in the early 1990s that the case management index was implemented. Did I misunderstand you?

**Mr Tuttle:** The case mix index is just the index that comes from the Alberta system. It wasn't fully implemented until 1996. I believe that was the first year it was fully in place.

**Ms Martel:** Why would a move to that model have resulted in a loss of minimum standards of care?

**Mr Tuttle:** Because prior to that there was nothing in place to assess the individual needs of residents' anticipated care needs and relate it to funding. Once we had a system in place that focused on the individual and groups of individuals rather than a standard that applied to everybody, we simply felt the standard was no longer required.

**Ms Martel:** But you now have no regulation at all that facilities have to respond to—none.

**Mr Tuttle:** There is no minimum staffing hours requirement now, that's correct.

**Ms Martel:** Right. So you've got no minimum standard, and what we've seen, if you look at Pricewaterhouse, is a decline in the quality of care for residents. I think that's what you take away from the PricewaterhouseCoopers study. That's the end result when you don't have minimum standards of care.

1400

**Mr Tuttle:** I'm not sure there's a direct connection between the results of that study and taking away the minimum hours of care; I'm not sure the connection is there. Again, I have some debates with that study, but it is suggestive, and we have learned from it. We certainly have learned that we can probably improve greatly in the way we assess needs.

**Ms Martel:** OK, but now the auditor has come forward—

**The Vice-Chair:** I'm afraid we're going to have to move on to the government caucus. Mr Gilchrist.

**Mr Steve Gilchrist (Scarborough East):** Let me just preface at the outset that I certainly don't disagree with the premise behind Ms Martel's line of questioning. It's a rare day that I agree with Shelley, but I will say that when it comes to accountability, it's tough not to be sympathetic.

*Interjection.*

**Mr Gilchrist:** No, I'm not going to go too far down that road. But it does raise a number of questions. I would say, not to counter Shelley, if that information is going to be provided, it would obviously be relevant to know, if in fact the money went back, whether it was a return of funds that had been advanced by a municipality over and above any normal commitment or in anticipation of the province flowing funds. So I hope that if, as and when you are able to come back to us with the results of your survey, it won't just be the quantum of what went where but, if in fact funds flowed outside of the envelope, an explanation, if one is available, of why they did what they did. Because there's a flip side to that, and Ms Martel didn't articulate it: if in fact municipalities have glommed on to a new income stream, that's obviously relevant to another ministry of the crown which continues to hear messages from them about how



underfunded they are in a variety of other programs. In the run-up to the municipal elections this fall, I think the good citizenry in those communities would love to know if in fact they've decided to make money on the backs of long-term-care clients in their institutions. But we'll all have to wait for that final answer.

Having joined you just for this afternoon, I have not heard what the time frame is for this survey that I've often heard mentioned. How quickly is that being prosecuted, and how quickly will you be turning around the results?

**Mr Tuttle:** We've just finished our consultations on the survey. We wanted to make sure it was as comprehensive as possible. It's going out for pilot either tomorrow or next week. We will try it in a few organizations to be sure that we're collecting the information and getting everything we want to know. I anticipate that it will take a couple of months before we have all the data back from all the organizations and are able to analyze it.

**Mr Gilchrist:** I'm afraid I'm also going to have to adopt a similar tone to Shelley here. We had a similar response when the Red Tape Commission tackled, along with other good folks in the civil service, the fewer forms, faster service project. The initial response we had was, "We can get back to you with a listing of all the forms in two years."

With the greatest respect, once you've done your survey preparation, your work is done. Why in blazes would we not be expecting these pilot facilities to give you a response in two weeks? There is nothing—nothing—that will not be immediately available from the production of a spreadsheet. They will either be able to immediately show you that the new source of revenue derived certain benefits or not. I would think it is preposterous to suggest that we should be sympathetic.

They have gotten the money on the basis of their appeal to us to get the money. Presumably it won't be very difficult to have them prove that, having heard yes to their appeals, they then went out and did what they promised they would do. Anyone who suggests that it will take an inordinate amount of time to assess the situation and come back to you with the data is probably hiding something. I don't have any sympathy for anyone who couldn't give an immediate turnaround. If you want to be really generous, give them 30 days. But we have to move. You need to get a response from those pilots.

By the way, the definition of "pilot": presumably you may find some design criteria that you want to tweak. Waiting to then get a response from the hundreds of homes that you will survey once it goes more broadly simply exacerbates the problem. So we need an answer to that, and we need it quickly.

If from your sample, which hopefully is geographically representative and crosses the charitable, municipal and nursing home sectors, your pilot and your sample size comes back and everything looks great, I guess it will calm a lot of the concerns you're hearing around this table. On the other hand, if all of the reports come back

and they all have some problems—perhaps differing, but some problems—you're going to want to increase the horsepower that you're putting behind this project and we're going to want to increase the scrutiny that's being given to any subsequent requests for funding, such as the one they've just launched now.

I am, and allow me the editorial position while we have you here, quite fed up with those who come before us asking for more and more and more who can't prove—not to our satisfaction, to the taxpayers' satisfaction—that the last appeal did not derive the benefits they promised. So we are now being barraged—I'm sure even members of the opposition are going to be getting the postcards promised from the long-term-care folks—and I'm sure they'd like nothing better than to have that campaign over and done with before the results of your survey come back. You'll forgive me if I have a different perspective on timing.

I would challenge why, and I would appreciate your response, you think more than 30 days should be allowed and then why you should take more than about two weeks to very quickly assess against your criteria and see whether everyone did meet the test that was attached to the flow of those funds.

**Mr Tuttle:** Sorry. I may not have been clear. We're planning on giving them about a week to get back with the pilots.

**Mr Gilchrist:** Excellent.

**Mr Tuttle:** So that's going to be taken care of quickly, and a couple of days to make sure, as you say, that we don't want to tweak it. I won't guarantee we got it exactly right the first time. Then about 30 days, tops, for people to get back to us, and a couple of weeks on that. It will be quite a bit of data from 540 facilities. We'll have to enter it into a database, and I was just saying two months on the outside. We want it as quickly as possible, and if there's any way we can deliver it sooner than that and get it done right, we'll do it.

**Mr Gilchrist:** That's encouraging. Forgive me. I took from your response that the pilot was going to take those number of months.

**Mr Tuttle:** No, sorry.

**Mr Gilchrist:** That's good news. I would encourage you that even at the conclusion of your pilot project, though, if alarm bells are starting to go off, you share that information with the committee or at least with the Provincial Auditor—or the reverse. If it's a good-news story, then I think he deserves to see that as part of your response to his report as well.

There is another topic I wanted to deal with, and I don't know if any of my colleagues have questions. When I came in, Mr Gerretsen was talking about waiting lists. I had a visit from folks from one of the long-term-care facilities in my riding just over a week and a half ago. They have an interesting perspective on things. It happens to be one of the larger corporate nursing home operators, one of their facilities, and in my own riding that same company has just opened a beautiful new facility. Their complaint is that the customers all want to



go to the new facility. It is new. Their concern is that it will be increasingly difficult for the older facilities to attract any business, to the point that they are sitting on 10 empty beds today and have had them for a protracted period of time.

**Ms Martel:** Thank you. Read Hansard. You'll know why I'm doing this.

**Interjection:** You should have been here this morning.

**Mr Gilchrist:** But at the same time, when I talk to my local hospital, people are refusing to leave the hospital. So the bottom line is that, having built the new facilities, which is a good thing and addressed the concern of the Shelley Martels and others in this world that there were waiting lists, now we have a situation where the same folks who have benefited from that expansion are turning around and trying to lever more money for older facilities. And not just that; they are suggesting that somehow the onus is on the government to keep writing bigger and bigger cheques rather than promoting individual responsibility.

I would like to know from the ministry's perspective why, according to them—and I will admit this was anecdotal. They showed me their own but they indicated that there's another nursing home in Scarborough that has 50 empty beds. Why is the ministry sympathetic to any single person staying in a hospital, blocking a bed, when there is no waiting list in facilities that, up until the day we opened the new ones, were the top of the list in Scarborough?

1410

**Ms Kardos Burton:** Just a couple of comments and then my colleagues can add to it. I think the one thing that we do have to take into consideration: first of all, we did do placement regulations, and one of the goals of those regulations was to actually move people out of hospitals and into long-term-care facilities. So we understand the need to do that. Secondly, I guess, there are a number of communities who are trying different pilot projects in terms of persuading people to move from hospital. But the one thing I do think we need to factor in is the choice of the individual. Literally forcing them is not permissible.

**Mr Gilchrist:** Again, back in 1995, when we inherited a situation where every facility was at least 10 years old because nobody had built one new bed anywhere in the province in that time frame, and most facilities were much older, you had a certain circumstance, a certain relationship between any of the nursing homes in a particular catchment area. Today we have added the new facilities to that mix. Did not, in and of themselves, those additions change the nature of all the other nursing homes in the riding? It adds a level of competition; I accept that. We always envisioned that that would promote upgrades and investments by the existing nursing homes, or else they would ultimately have to turn in their licence because people just wouldn't be coming to their door.

But somewhere in the middle were the facilities that were the top of the list before. In 1995, it would have been your number one, number two or number three choice. Nothing has changed in those facilities. I question why we would now have the same tolerance for people sitting in that \$300-, \$500- or \$600-a-day hospital bed, because they've seen that this government has made a commitment to building new facilities. But there's still a finite number of those. I really question why we have not gone back and, now that we have this very different equation out in the field, why we haven't reviewed the policy relating to discharges from hospitals.

**Ms Kardos Burton:** And we have. We've been working with the hospital association, we've been working with different communities, we've been working with the district health councils, and we've changed our placement regulations so that we have been actually working with it. Gail, would you like to add to that, please?

**Ms Paech:** We've recognized what's occurring in the hospitals, that even with the placement regs, individuals still are not moving. As we discussed this morning, we have built within the ministry a system now to give us a very thorough understanding of where empty beds are occurring and the numbers that are occurring. We also are developing now programs, such as a short-stay program, that we would recognize that the individual in a bed in the hospital probably is not in the right place. An acute care facility is not the appropriate place for an individual that does require long-term-care services.

So the programs that we're looking at—and we are looking at a variety of them. I said earlier this morning that we were looking at respite programs so that if there were beds that are empty in the long-term-care facilities, we would create these programs so that people who were in the community, being looked after by their family members who needed some relief—the patient could stay in long-term care for a period of time and then go back to their home.

Another program that we're looking at to implement to address the acute care problem is that for clients who want to go to a specific facility and there is not a bed available but we have empty beds, we will then create short-stay programs in these empty beds. Clients will be moved to those beds, and once there is a bed available in the home that the client wishes to go to, the client will go there.

**Mr Gilchrist:** OK. I guess my question to you then is, if the short-stay program, which is really not all that different from the status quo—people are waiting for a spot in the new facility. They think the hospital is their only option because they don't want to be forced into a longer-term commitment somewhere else. How is it different? Why should we not simply move to that as a policy immediately?

I can tell you that in the alternative, any delay will bring about situations such as one that is about to occur. At another hospital I spoke to the CEO, who indicated he's about to sign a contract to take over a certain number of beds in a nursing home facility. So he will



move the patients there, and theoretically they will not have been discharged from the hospital. So they're going to the very same facility they're saying no to at the CCAC, but it will nominally be under the control of the hospital, the 10, 20 or 30 beds he contracts for.

Again, it makes no sense to me. I am totally sympathetic that the patients' needs have to be recognized and the CCAC has to have a discharge plan. But if facility X can meet all those needs, even if it's in the context of a temporary stay—you can still specify three other facilities as your top three choices—you have no option, you're not staying in the acute care facility.

Why don't we move on that today and end the perception, first off, that we have a hospital bed shortage in the city of Toronto, because we don't, and secondly, that there are waiting lists, because it would largely, if not totally, eliminate—Shelley was right; I heard her comments this morning. We actually have too many beds. Let's make sure that's the banner headline and that people know there is quality care out there for every person who needs long-term care.

**Ms Paech:** I probably did not make myself clear. What you have described is the program I have described. What the CEO is proposing is what the ministry is proposing that we will do. So it will not have to be the hospital that does it and funds it. The ministry is moving in that direction. That is what we are going to do.

**Mr Gilchrist:** Good, and so it won't be a choice. The patient will not be allowed to stay in the hospital.

**Ms Paech:** The client will move to a long-term-care facility and wait in that facility in a short-stay program until the place where they want to go is available.

**Mr Gilchrist:** Great. Now tell me why we've added the bureaucracy and the red tape of the hospital having any involvement in the long-term-care facility. Why is the hospital contracting with that nursing home?

**Ms Paech:** The hospital will not be. The CEO of that hospital does not know of this new program. We are developing this program. It will be a standardized program across the province, so that we do not have every CEO in every hospital developing their own program. We are standardizing it. It will be rolled out across the province. It will be implemented locally.

**Mr Gilchrist:** And the time frame for this innovation?

**Ms Paech:** It will be in relation to the announcement of the sustainability program, and it is comprised of a variety of different programs in terms of respite care, short-stay programs—there is a variety, basically. We're developing a series of programs, which will be rolled out, that can fit whatever the local needs are.

**Mr Gilchrist:** Soon?

**Ms Paech:** Yes, absolutely. It will roll out with the sustainability program.

**Mr Gilchrist:** Let me, as a corollary to that—do I have a couple of minutes left? Very quickly then, what thought is being given, as the marketplace has evolved—not surprisingly, people see the extraordinary new facilities that have been built in the last couple of years, and not surprisingly as well, those facilities have made

their way to the top of the list. Why was there no consideration before, and is there a possibility that we will consider in the future, a price differential that will still achieve the same average but will put a premium on the new facility and a reduction on the older facility to allow consumers the choice, so that if they perceive a difference, and it would appear they do, they will have the same mechanism as with every other product in the marketplace? It will be your choice. If you want the brand new facility, which probably has no different service, but it's perceptual—if you want to use that one, then there's a price differential over an identical-service facility down the road that may be 10 years old.

1420

**Mr Hassen:** Maybe I could just make one comment. I think you will find that providers of services are having difficulty filling even their private facilities now, even in the new facilities.

**Mr Gilchrist:** Exactly.

**Mr Hassen:** Increasing the price isn't going to improve that for the new facilities.

**Mr Gilchrist:** Are you saying they're having trouble filling the new facilities?

**Mr Hassen:** For private rooms generally they're having—

**Mr Gilchrist:** Not the ones in my riding.

**Mr Hassen:** It isn't as demanding in some of the privates as in others. All I can say to you is—

**Mr Gilchrist:** Sorry to interrupt you. My concern, and I should have said this, is at the ward level, not so much the private facility. Because of our new design for what we're calling ward space, which really are private rooms, it was to be expected that people would place a premium on the perception of improved privacy in those new facilities. Why do we pay the same to each facility in a four-person ward or two-people private rooms with a shared bathroom?

**Mr Hassen:** Let me turn it to my colleagues. I'm not aware that we've done that analysis but I'll let them speak to it.

**Mr Tuttle:** We often receive opinions on our charging policy and other ways it might be directed. The central principle of the policy right now is that ability to pay is not a barrier to care. Everyone pretty much agrees that that's a good principle.

Having said that, with the development of the new beds and the changes in the system that are occurring, not just in our side but hospitals and everywhere else, we're taking another look at our charging policy but can't say which direction it would be going right now. It's too premature for that.

**The Vice-Chair:** We'll move on.

**Mr Gerretsen:** I have some great concerns if we start charging differential rates. We're right into a two-tier system, where the people who can afford it get the better homes and the other people get the rest. It's something that I can assure you I would never support and I dare say my party wouldn't support.

I'd like to get back to this question of waiting lists, and only for this purpose. The metropolitan area here may be totally different than the less urbanized areas out there. I can only relate to my own situation in eastern Ontario, where the catchment area for being placed on a waiting list is rather large. There is a possibility in the Kingston area that if you get placed on a waiting list, and particularly under the new system that you have in effect now, you very well may end up in a home as much as 70 kilometres away from, let's say, the city of Kingston. This has happened to a number of people I know of, where they had to make those kinds of choices. Of course what that does immediately is, it severely limits the ability of family members to visit the elderly person in the home.

The point I'm simply trying to make is that whereas in an urban area you've got a whole group of homes and there are many more new units being built right now, the kind of choice we had a discussion about earlier simply does not exist in the less urbanized areas. I would dare say that the distances we're talking about in northern Ontario are probably even much more severe. The moment you start moving somebody X number of kilometres away from their own home and cut off their ability to connect with their own family members or other caregivers etc, that's going to severely affect them.

There's another issue that I simply want to raise with you, and I tried to raise it earlier. In one of the hospitals in my area, two floors which basically had been closed to beds have been turned into a long-term-care facility. I know what I'm speaking of, because one of my own relatives stayed on one of these floors for three months. There are people there for as long as two years. It's in effect a long-term-care facility within a hospital structure. That's so. I know what I'm talking about. I went there on a daily basis for a three-month period of time.

I can see that the hospital is doing it in order to get some additional revenue, because most of these people are immediately put on a copayment system. I'm not faulting the hospital for doing that. There may even be a certain comfort level that if somebody is in a long-term-care facility next to a hospital, if they need it right away at least it's right there, or it's part of a hospital system.

That's just to counter what somebody said this morning. That does exist, and these must be the interim long-term-care beds that we're talking about. If you're shaking your head no, I would suggest you check with the Kingston General Hospital. They've been doing this for quite some time.

On the accountability aspect, I totally agree with Mr Gilchrist and Ms Martel, and I never thought I'd ever agree with Mr Gilchrist on anything. But that's really what it's all about. I cannot understand: here is \$100 million that the minister is saying will go for 2,400 nursing and personal care workers, which works out, on average, to about \$200,000 a facility, maybe more in some of the larger ones, less in other ones. Why wouldn't the ministry have sent a letter out to each one of these

organizations and said, "Here's the money. Write us back as to how you're going to spend it, or whom you've hired for it, or how many people you've hired for it"? To now come back, almost six or seven months later, and say, "Well, we're doing a comprehensive survey"—whatever that means, and—"We're only giving them a week to respond to that," I think is pretty lame.

What gives me real concern is the fact that this \$100 million is only a very small part of the \$1.6-billion total pie that both the associations and the ministry are saying, "We are better than anybody else around the world because we actually allocate the funding to four different categories, and nobody else does that." Well, if we have no handle on how the additional \$100 million is going to be allocated, that sure doesn't give me much of a comfort level that the original \$1.6 billion which is going out for the per diem care is being handled in an appropriate fashion.

That's what it's all about: accountability. So far, I have not been given any assurance by any of you that there really is any accountability and that the money is being expended the way it should be expended in those four categories of need.

That's all I'll say on that at this point in time. It's very discouraging, particularly when we're dealing with individuals who by and large, unless they have an advocate on their behalf, cannot speak for themselves. Thank goodness most of the operators, and certainly the vast majority of the staff people who work in these homes, do an outstanding job, as I mentioned earlier. But a lot of them are left to their own devices. For the government to say, either through the ministry or the minister, "Yes, we have all these safeguards in place. We're going to hire more people etc," and to be given the lame excuses or lame accountability mechanisms we've heard about today, gives me absolutely no assurance at all that it's being done.

I would only suggest to you that we actually do put some standards in place, not only to make sure the funding is going in the appropriate direction but also as far as staffing is concerned. I think that's probably the main area. I think there are only so many ways in which you can measure this; I realize that. All the standards that have now been done away with under some globalized regulation or what have you—I know there are a lot of complaints about the one bath a week and the various other things.

What I cannot understand is that inmates in provincial institutions are guaranteed one shower a day, and it's the same thing in federal institutions—I have seven of them in my riding—and here we aren't even willing to commit to one bath a week, because you've done away with that, for the people who live in our long-term-care homes, who have contributed so much to this province.

I think it tells you something about our society, about how government views the elderly in our society. I think we give them a very low priority in this province. Just so you know where I'm coming from, I don't think it's just the current government that started this; it probably



started way back when. When you look at some of the facilities elsewhere in the world in systems that are less well off than we are, it certainly seems to me that those societies value the contribution of their seniors a lot more than we do here. Unless we have a cultural change around that whole mechanism, this is just going to go on and on, and poor individuals like yourself basically are going to have to defend current government policy which really the politicians should be there to defend.

1430

I wish you well, and I still put that proposition to you that I did earlier today. I would like to hear 'somebody say to the minister, and you don't have to say it right now, "Look, if we really respect seniors and if we really make seniors our priority in this province, let's come up with that \$260 million that's required to make sure that in that study we're talking about we're no longer at the bottom of the list as far as personal care and nursing care services are concerned. Let's at least strive to be somewhere in the middle." That's what's needed.

Thank you very much for all your answers.

**The Vice-Chair:** Thank you, Mr Gerretsen. We'll move on. Ms Martel.

**Ms Martel:** Thank you, Chair. Before I continue on with questioning on standards of care, I want to make one point with respect to the \$100 million. I'm angry with facilities that didn't use that money to hire new staff. I'm more angry with the ministry for giving facilities approval to do the things they did with the money.

I'll give you the example of Rainycrest, because we talked to the director. The director at Rainycrest specifically asked the regional Ministry of Health office if he could use that additional funding from the \$100 million to deal with his operating deficit at his home for the aged. He was told yes. He did that with the full approval of the Ministry of Health.

My question is, where's the ministry when it comes to ensuring that this money was used for the purpose that was intended, which was to hire new staff? That's what I'm truly concerned about. What guidelines did the ministry set up, and why weren't guidelines put in place that would have ensured money was used for the purposes that were intended?

Let me go back to the standards of care. Mr Tuttle, you've said a couple of times that the assessors go in and they determine the level of care that is required for each resident across the province, and that's well and good. The problem is that the ministry has no idea whether or not those needs are being met. Let me go back to what the auditor said, because not only do you not have any minimum standards, but you have no idea what the staffing requirements are in any of these facilities and how much staff is actually being provided.

I'm going to quote again, although this was done previously, from page 127: "Currently, the ministry does not have any staffing requirements and does not track facility staff-to-resident ratios, the number of registered-nursing hours per resident, or the mix of registered and non-registered nursing staff." In other words, you don't

have a clue of whether or not the needs of residents are being met, because you don't have any of the information in place to determine that.

As a result of making that finding, the auditor's office has said to you in its recommendations, "track staff-to-resident ratios, the number of registered-nursing hours per resident, and the mix of registered to non-registered nursing staff and determine whether the levels of care provided are meeting the assessed needs of residents; and"—further—"develop appropriate staffing standards for long-term-care facilities."

I haven't heard you say you're going to do those two things, and I think that's critical if you're going to finally convince residents and their families that they are getting the care they need. When are you going to implement those two important recommendations?

**Mr Tuttle:** I'd go back to the point I made earlier, and I believe Mary Kardos Burton did as well, that one of the central recommendations from the Provincial Auditor that we take very seriously and have acted on was to introduce the minimum data set, which will help to—I can't exaggerate how much information this particular tool will produce. We're moving forward on that, and that's kind of the first step that we would need to go before any decisions that we make on other areas.

**Ms Martel:** Tell me, how long is it going to be before you have information from the minimum data set?

**Mr Tuttle:** At the present time, we have staff; we've assigned resources to begin to explore how we might implement this system. We have a very large system, as you well know. You know how big it is. We want to make sure that we're sure of all the consequences and that we have all the information technology and all the rest of the supports in place required to introduce the system properly.

**Ms Martel:** Just give me a ballpark figure: one month, two months, a year, what?

**Mr Tuttle:** I would think that, after a pilot, if government decided they wanted to proceed with this, in a system our size my estimate would be that it would probably take at least three years to fully introduce and train everybody. That would in fact be a little faster than it has been introduced in other jurisdictions.

**Ms Martel:** When is the pilot going to be over?

**Mr Tuttle:** The length of the pilot hasn't been determined yet. We're just looking at how big it needs to be.

**Ms Martel:** So the pilot hasn't started yet?

**Mr Tuttle:** The pilot hasn't started yet, no.

**Ms Martel:** How long do you think the pilot is going to take before you move to full implementation, which is an additional three years?

**Mr Tuttle:** I don't mean to prevaricate, but I'd be speculating on the outcome of the pilot. It depends on what we find: the state of readiness of the facilities, the technology we need and so on.

**Ms Martel:** When is the pilot going to start?



**Mr Tuttle:** I'm hopeful that we'll be able to start a pilot in the near future, but I can't commit to the exact timing.

**Ms Martel:** Oh, boy. I've got to tell you, you've got a situation where the Provincial Auditor does this work and comes forward with some recommendations that I think are pretty appropriate and, quite frankly, would probably for the first time since standards were cancelled give some idea to residents and their families that quality of care is being provided. At the minimum, as I look at this, it's going to be three years before you can implement it fully across the system, but we don't even know that date because you're not sure when the pilot will start and the three years happens some time after the pilot. So let's say we're talking four years before we even begin to effectively deal with recommendations they made; isn't that correct? That's how long you're talking.

**Mr Tuttle:** To fully implement the MDS system, yes, it will take some time. I would like to stress, though, with respect to some of the items the auditor has talked about—and I agree that we are talking about the protection of a very vulnerable, frail group here—that considerable improvements have been made. As I said earlier, it used to be that we didn't even have an annual review of everybody. We do have that now. We're in more often than we ever have been in the past, and there is more funding in total and in the percentage of the per diem devoted to nursing and personal care than there ever has been in the past.

**Ms Martel:** Wait a minute. The auditor said on many occasions—certainly on page 129, and this is the third time I'm going to repeat it—that you don't have enough information to determine if the money in those envelopes is being spent where it should be. I don't take any comfort whatsoever from your saying that.

**Mr Tuttle:** We do reconciliations each year. We recover and have recovered monies in nursing and personal care envelopes when it's not spent. The only way we could recover money is if we had the detection means to recover the money in the first place. We do it; it's just as simple as that.

**Ms Martel:** It's the patients who suffer when money that is supposed to go into nursing care and personal care doesn't go there. You're essentially telling us that some of the mechanisms you might use to really ensure the quality of care are going to take us another four years, maybe. Don't you think that's completely unreasonable?

**Mr Tuttle:** I'm giving you my best guess, based on what I know about how long it took to introduce in the United States and how long it's taken to introduce in other systems. I wouldn't want to mislead you by saying we can do this next year.

**Ms Martel:** I'm sure it won't be next year. I'll be surprised if it's even in four years. My concern is that you're going to have another report, another 2001 PricewaterhouseCoopers, with the same kind of results. If we don't start to get some standards in place, if we don't start to get some staffing ratios in place, if we don't start to get some conditions—strings attached to new money

that goes in—we're going to be in the same boat with those kinds of abysmal results for residents who live in long-term-care facilities.

**Mr Tuttle:** I said earlier that I don't want to pre-empt our compliance review. It isn't completed yet; it's almost finished. It's pretty comprehensive, and I think the recommendations will go some way to addressing some of the concerns. But I repeat that full implementation of MDS, if the government decided on that direction, would take at least three years.

**Ms Martel:** How many compliance officers does the ministry have?

**Mr Tuttle:** Right now, I believe there are 41.

**Ms Martel:** How many vacancies do you have?

**Mr Tuttle:** I'd have to get back to you. I may have that data here; I'll try to get it for you. I think there's an environmental vacancy, a dietary vacancy and a compliance vacancy, but I want to stress that I want to get back to you with the exact vacancies.

**Ms Martel:** Is that for all seven regions? That's the total?

**Mr Tuttle:** Yes. When we do experience vacancies, like elsewhere in the civil service, we immediately advertise and recruit, and recruitment is going on right now.

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**Ms Martel:** The number of 41 compliance officers, is that up or down compared to previous years?

**Mr Tuttle:** Over the last four or five years it has remained pretty stable, if you take that amount compared to beds or facilities. However you divide it up, it's been pretty stable.

**Ms Martel:** Could you table for this committee the number of compliance officers? Can you give us the data back to about 1994?

**Mr Tuttle:** Absolutely.

**Ms Martel:** Great. Now let me ask you about service agreements, because the auditor pointed out that the ministry is signing service agreements with operators without ensuring that those facilities are in compliance. Why would you not refuse to sign a service agreement until a facility is in full compliance?

**Mr Tuttle:** I mentioned earlier that we have something like 30-odd standards and 400-plus criteria organizations are required to meet. The biggest criticism we have is—nobody tells us we have too few; they tell us we have too many. Those standards and criteria run from things like, for example, if a compliance adviser is walking through a long-term-care facility and the closet door is open to the cleaning area and there is a cap that's loose on a jar of cleaning fluid, they'll tell them to fix it right away, and they may even leave a finding. On the other hand, we go right up to the point where you have—and I want to stress that this information is reviewed by senior management—prevalent and recurring compliance violations that would lead to suspension. So there is a very wide range.

The object is always to bring the facility up to standard and they usually want to do that. They submit a compliance plan. We work with them and rectify the



situation. Immediately cancelling their service agreement wouldn't serve any purpose for the residents or the organization.

**Ms Martel:** Can you guarantee to this committee that where there are serious breaches, the service agreement is not signed and money does not flow? Can you guarantee that to us?

**Mr Tuttle:** In the case of a very serious breach, we can go right to the point of applying to take over the organization. We probably usually would have suspended admissions first—the economic penalty—then we can move to take over, and have done so.

**Ms Martel:** How many facilities are not in compliance?

**Mr Tuttle:** I'd have to get back to you. If you mean how many facilities have as little as even one compliance finding, then I'm going to have to get back to you on that.

**Ms Martel:** I would be interested in knowing how many are not in compliance. I don't have an idea of what you use for serious or not serious, so that's a bit problematic. Our definitions about what is serious and not might be different too—yours and mine.

It seems to me that if you want to get facilities into compliance, the best way to do that is to withhold their funding until they are. It wasn't just me that pointed that out. The auditor says very clearly, "The ministry did not take into consideration whether or not the facilities were in compliance with ministry standards at the time that service agreements were signed." He also said, in the recommendation, "The ministry should ensure that all long-term-care facilities have valid service agreements and that each facility's compliance status is taken into account."

**Mr Tuttle:** What I would say to that is—and this isn't just Ontario—any jurisdiction that has a compliance management program for vulnerable populations wants to make sure that their penalties don't have an unintended negative consequence for the residents. So the first instinct isn't to reduce funding, since all the funding is intended to provide for care of the residents, if we're talking about infractions of care. So if we go in and see charting that we don't feel is up to standard, then our immediate instinct isn't going to be to reduce the funding that's flowed in order to care for the residents. We will have other consequences.

Our first instinct is to rectify the situation. I think, from what I've heard everybody here say, we all agree that the workers, the staff, are there because they're absolutely dedicated to the care of their residents. We count on that. Sometimes problems happen and we usually find that we can work with those dedicated folks to fix things up.

**Ms Martel:** It's not the staff I'm usually worried about, to be honest with you; it's more the operators.

You told the auditor that the service agreements to operators were going to be distributed by December 31, 2002, and you told the committee this morning that's not

going to happen now until April 30, 2003—2003 in 2003. Can you tell us why there has been a delay in that?

**Ms Kardos Burton:** The delay is because there were some information requirements. It was strictly information requirements that we needed. I think it had an adjustment for the copayment as well as the acuity level increase. So it was strictly information coming back to us that we needed to analyze.

**Ms Martel:** Let me ask you some questions about the new beds. One of the changes that the ministry made with respect to the new beds was to change the policy you had on the split of preferred accommodation revenue for long-term-care facilities. Previously it was a 50-50 split between the operator and the ministry. Can you tell me why that was changed so that facility operators now receive 100% of that revenue?

**Ms Paech:** In the year 2000, when the long-term-care redevelopment was created to assist facilities with the development process of the 20,000 beds, when we reflected back and looked back to when the program was first announced in 1998, and also when the \$10.35 was determined—that was determined probably around 1996. When we looked at what was happening with the development process of the new beds and looked at the costs of construction and the inflation that was taking place, there was concern that the \$10.35 was not sufficient or not covering the cost, and people were not able to get the trades to be involved in the construction. When we looked at whether we could rectify and change the \$10.35, we were told that because we had used an RFP process, which is a competitive process which has very defined rules around it, we could not change the \$10.35, that if we changed the \$10.35, all of the parties that were involved and that were not successful and all individuals anywhere could come and say, "We did not make an application through the RFP process because we knew the \$10.35 was insufficient."

So when we looked at it, we asked how we could adjust to recognize that there could be a problem that was impeding the development of these beds. The decision was made that one way we could assist is that the 50% from the preferred accommodation that the ministry was retrieving would be left with the facilities so that that money could then be used for the facilities to assist in the redevelopment of both the D facilities and the new facilities. It was clearly recognized that all of the facilities may not be redeveloping, such as the Bs and Cs, but it was hoped that monies that were retained would be used for upgrading their facilities and also enhancing their financial position so that when a new program came into place they would have increased equity.

That was why the decision was made. We were bound by the restrictiveness of the RFP process.

**Ms Martel:** Here's my concern: what guarantee do you have that that money that you hoped was going to be used for construction for the new facilities or construction for the upgrades actually went into construction?

**Ms Paech:** I do not have that guarantee. What I do know is that prior to that point in time we had 65 beds

built. At this point in time we have 10,000 beds built, and we will achieve the objective of 20,000 beds.

**Ms Martel:** You see, what I'm worried about is that money that used to come back to the government might be going into people's profits instead of any kind of construction. You've got facilities that weren't undergoing any kind of redevelopment or renovation that were entitled to get this revenue. Where did that money go if they weren't even doing any renovations or reconstruction?

**Ms Paech:** I do not know.

**Ms Martel:** OK. How much did the government lose as a result of this change? What was your loss in revenue—because you used to get 50% of this revenue, right?

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**Ms Paech:** Forty-three million dollars.

**Ms Martel:** Can you tell me, then, what did that \$43 million, when you got it back—what was it used for previously, before this change in policy?

**Ms Paech:** It was returned to the Ministry of Health and it would go back to the treasury.

**Ms Martel:** So it wasn't used for any other kinds of supporting services in facilities?

**Ms Paech:** No. Those monies do not go back to the Ministry of Health. They go back to the treasury.

**Ms Martel:** That's on an annual basis, that loss of \$43 million back to the treasury; is that correct?

**Ms Paech:** Yes, it is.

**Ms Martel:** Just in confirmation, because you guys lost 43 million bucks but you'd also, on the other hand, have no guarantee that that revenue went into construction and not into the pocket of the for-profit operators?

**Ms Paech:** That's right. I would reiterate my response that, prior to that point in time, we were not having any construction or development of the 20,000 beds. With the additional monies that were flowed, we then saw that the beds were being built.

**Ms Martel:** Well, yes, the beds could have been built because you were giving these folks \$10.35 per diem as well that will give to each of them about \$75,000 per bed, so that's a pretty significant incentive.

**Ms Paech:** We were giving the \$10.35 prior to that point in time. As I've indicated, that amount was set several years earlier, that during the period of time from 1998 on, when we looked at the amount of construction that was occurring across the province and the costs of construction and inflation, the \$10.35 was certainly a generous contribution, but owner-operators were experiencing difficulty in being able to construct facilities for that amount.

Also, if you look, it is up to \$10.35 per bed per day for 20 years. If you understand the financing of that, up to \$75,000 per bed, when you look at it over 20 years, is \$45,000.

**Ms Martel:** Have you got some facilities that are building beds for less than that, less than \$75,000?

**Ms Paech:** We have been tracking the costs of the beds that have been built. On average the beds are cost-

ing, and I believe this but I will certainly check, about \$120,000 per bed.

**Ms Martel:** For the new beds.

**Ms Paech:** Yes.

**Ms Martel:** And for the redevelopment?

**Ms Paech:** Similarly, but I will certainly provide that information if you would like. We are tracking that.

**Ms Martel:** Further to that, the auditor made some comments about premiums for structural compliance. Those would be for the other facilities that have to be dealt with, on page 137. I'm going to ask these questions because I don't think the auditor got answers when he did his report.

The first point was, "Because the province had funded 50% of the original construction costs of charitable and municipal homes, per diem premiums for these facilities were apparently reduced by 50%; but premiums were not reduced for nursing homes that, prior to 1996, received provincial funding through debt servicing and compliance premiums to partially compensate them for the cost of construction."

Can you tell us why there is that discrepancy?

**Ms Paech:** My understanding of this policy was that prior to 1998, municipal homes and charitable homes, when construction of a new facility or an add-on to that facility occurred, it was done through a grant application. The grant application was that 50% of it was paid by the province—there was no cap on that—and 50% was paid by the owner-operator. The government did not give any financial commitment to the nursing home industry for the construction of these facilities. So when the structural premium program was brought in, because the government had paid 50% for the municipal and charitable homes, they believed that they had already made a contribution for the structural premium program. Therefore, they would give 50% of what they were giving to the long-term-care facilities, which were the private sector, because they had not in any way contributed to the costs of that. That was my understanding of the reason for the decisions that were made at that time.

**Ms Martel:** If I might, though, the auditor said, "Nursing homes ... prior to 1996 received provincial funding through debt servicing and compliance premiums to partially compensate them for ... construction." So they got some money too, correct? As I listened to you, the argument is that nursing homes didn't get any money for construction, so that's why their premiums are different. Non-profit homes did get some money for original construction, so their premium is being reduced by 50%, and I don't understand that. As I read the auditor's report, they both got money.

**Ms Paech:** I would have to provide you with further information. I do not know.

**The Vice-Chair:** Ms Martel, just for a moment, we've gone a bit over the normal time, and I would want to, then, give the government side an opportunity for another round.



**Mr Chudleigh:** A little clarification, Chair: would this be the last round? If the committee is ready to adjourn, I think we're probably ready to adjourn as well.

**The Vice-Chair:** There is no last round, I guess, until we realize that we've reached it. I'm just saying that the 20-minute segment—

**Mr Gerretsen:** That sounds like ministry-speak. What does that mean?

**The Vice-Chair:** The 20-minute segment is up. Actually, we've gone about 24 minutes on this one. I'm just saying I want to give the government side an opportunity. Ms Martel, do you have any idea—I guess that's what we're getting at—of what your length of time will be?

**Ms Martel:** Can you give me about 10 more minutes?

**The Vice-Chair:** Ten more minutes?

**Mr Chudleigh:** Sure, that's OK with me.

**Ms Martel:** I have another question on this section, and then on a different one.

**Mr Chudleigh:** Are you OK with that, John?

**Mr Gerretsen:** Sure.

**The Vice-Chair:** Thank you.

**Ms Martel:** I had questions about the next point as well, and Ms Paech may have to get information back to us: "Ministry staff could not explain the apparent inequity whereby class A charitable and municipal homes receive only 30% of the premiums received by nursing homes whereas class B and C facilities receive 50%."

**Mr Tuttle:** We'll have to come back with that answer.

**Ms Martel:** That would be great.

Let me ask some other questions that go back to the \$100 million and the announcement that was also made at the same time. I raised this question in estimates, so some of you will remember this, but let me ask it again. I raised a particular concern that one of the changes the ministry made at the time of the \$100-million announcement was a change with respect to the funding policy for incontinence supplies. Specifically, you said to operators that effective August 1, 2002, incontinence supplies will be eligible expenses to be reported and funded under the nursing and personal care envelope, rather than under the other-accommodation envelope. Secondly, there will be no corresponding decrease in funding for the other-accommodation envelope.

The argument I raised at the time of estimates was that it seemed to me that facilities were actually getting paid or were receiving money twice for incontinence supplies: first, under the nursing and personal care envelope, where it should be expensed; but, second, they were still receiving the same amount of money they had received previously for incontinence supplies under the other-accommodation envelope. So I asked the ministry what the value of that was, and we finally received information back to say it was about \$26.7 million.

Here's my concern. If there's no corresponding decrease in the other accommodation envelope, ie, the facilities are receiving that money, where's that money going?

**Mr Tuttle:** Again, there are eligible expenditures in the accommodation envelope. I can't tell you exactly where that particular money was spent. I can tell you that the \$1.20 moving into nursing and personal care seemed perfectly appropriate and helps us better to track expenditures on incontinence, which have become a huge issue in our homes; 86% of people, I believe it is, now have incontinence issues. So it's a major problem, and it was spread between some costs for laundry etc before. We are taking steps now to make sure that the incontinence costs are expensed to the nursing and personal care envelope. The \$1.20 that was essentially freed up in accommodation could be used to help pay your utility bills; it could go to the salary of a dietary worker. I doubt there's one answer across the board for all facilities.

**Ms Martel:** Why would you essentially give facilities money twice for that? Because that's what you're doing. You're giving it to them in the personal care envelope and you're not removing the same amount of money under the other accommodation. Why?

**Mr Tuttle:** First of all, nobody wants to see funding for these organizations reduced. So in order to achieve our goals with the incontinence program, we moved that into the nursing and personal care envelope. That frees up some money for other pressures in the accommodation envelope, and they are legitimate pressures that relate to the operation of the home. But I can't tell you exactly how a particular facility would have used that extra \$1.20. What they tell us so far is that it's things like utility bills, and again I mentioned the dietary workers, that sort of thing. But there are any number of expenses in accommodation that would be eligible.

**Ms Martel:** It's also the profit line for for-profit facilities.

**Mr Tuttle:** You're absolutely right. We have a segregated system, and the only place you can take a profit or a surplus is the accommodation envelope.

**Ms Martel:** It would be my concern that in fact that's what some of the money is being used for, and you would have been better to take the money out of that envelope and apply it to care, then, to be sure that's where it went.

**Mr Tuttle:** Again, I can't tell you exactly how it was spent, but it could be spent on dietary workers; it could be spent on any number of particular issues.

**Ms Martel:** It could be.

**Mr Tuttle:** There are private sector operators in the system. That is a fact of our system. It's approximately half the operators.

**Ms Martel:** OK, thank you.

**The Vice-Chair:** Is that it, Ms Martel? Thank you. No more questions or comments?

I want to thank you, Deputy Minister, and your colleagues for appearing today. I think it's been a good day and a good session. Again, thank you for coming.

There being no further business, this committee is adjourned.

*The committee adjourned at 1503.*





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